



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE FOR THE MEETING HELD THURSDAY, APRIL 13, 2017

Call to Order:

Chair Douglas Cole called the meeting of the Finance, Taxation, and Economic Development Committee to order at 2:29 p.m.

Members Present:

A quorum was present with Chair Cole and committee members Asher, Clyde, Davidson, Dever, Mills, and Trafford in attendance.

Approval of Minutes:

The minutes of the November 10, 2016 meeting of the committee were approved.

Discussion:

Chair Cole announced that an issue for the committee to determine is whether to recommend a new constitutional provision that would assign debt reporting functions to the treasurer. He said because the committee has recommended the repeal of the sinking fund provisions, specifically the requirement there be a sinking fund commission charged with the responsibility of providing a report regarding state debt, there may be a consensus that a new provision constitutionalizing the role of the treasurer in providing the report. He said the treasurer's office has recommended such a provision, with the Office of Budget and Management (OBM) agreeing that there may be a need for a modernized provision assigning debt reporting functions to the treasurer.

Committee member Jo Ann Davidson commented that Ohio has had a strong reputation for managing its debt well, adding it would be better to deal with the debt reporting duty in a constitutional amendment rather than by statute. She said she would support a constitutional amendment assigning that role, but that the provision should include more detailed requirements regarding what needs to be reported in order to be sure the public has access to all of the relevant

issues. As a model, she said the committee could refer to suggestions by OBM Director Tim Keen.

Committee member Kathleen Trafford said a constitutional provision would provide a comfort level since the committee has recommended getting rid of the sinking fund.

Committee member Herb Asher agreed, saying the issue of public debt rises to the constitutional level.

Ms. Davidson noted that there are other restrictions in the constitution based on the level of debt, cautioning if the provision is not specific enough it could be misinterpreted.

Chair Cole asked whether anyone on the committee opposed the concept of proposing constitutional language that would create a debt-reporting role for the treasurer, and there were no objections. He then asked staff to assist in drafting proposed language for the committee's next meeting that would constitutionalize the debt reporting functions for the state treasurer, as opposed to the process outlined in Article VIII, Sections 7 through 11.

Chair Cole then turned the committee's attention to possible next steps for consideration, indicating that the committee had not resolved what to do with Article VIII, Sections 4, 5, and 6. He said Sections 4 and 5 prohibit the state from giving credit to or assuming debt from private corporations, while Section 6 prohibits political subdivisions from joint stock ownership, lending in credit, in relation to private corporations.

Reiterating that he has provided legal representation to JobsOhio in the past, he asked whether the committee would like to review Sections 4, 5, and 6, indicating there is a large body of case law built up around those provisions, and that the committee could take on task of rebalancing that. He said, if so, a first step would be to identify problems with the current structure, and the committee could hear from representatives of Progress Ohio in relation to litigation against JobsOhio. He said the topic is complex and would take some time.

Ms. Trafford asked whether anyone is aware that state officials, or the Municipal League has expressed a problem with those provisions. Chair Cole said he has reached out to see if anyone in state government wants to present to the committee, but has not had success in identifying anyone. He noted an early presentation to the committee from the Port Authority, saying he is not sure if that organization has a view or recommendation.

Ms. Davidson said she recalled the Port Authority had recommended a system that would provide it with more flexibility, allowing it to expand its activities.

Ms. Trafford said the Port Authority concern falls in the economic development area, where this constraint would be most felt. She said Article VIII, Section 13 exempts programs from the operation of Sections 4 and 6. Chair Cole asked staff to locate and provide that previous testimony for the committee's review. He continued that the committee has not addressed Section 13 either, offering to arrange for a speaker in relation to the operation of Sections 4, 6, and 13. He said this would allow the committee to make a recommendation based on

information. He suggested Greg Stype, state bond counsel who spoke to the committee on previous occasions, might be able to speak to this issue.

Chair Cole said this topic would wrap up the committee's work on Article VIII, and asked what the committee's views were on considering Article XII, regarding finance and taxation, and Article XIII, regarding corporations. He said the committee's homework would be to review the articles and consider speakers who might like to talk to the committee about issues raised by those sections. He commented that he has not heard from anyone with potential changes to those articles.

Ms. Trafford noted that Sections 14 through 17 of Article VIII may not be necessary. Chair Cole said Section 17 is the debt limit, while Sections 14 and 15 relate to housing. He said the committee may need a recommendation regarding those sections. He asked staff to prepare a brief memorandum reviewing the committee's prior work on the various sections and topics so that the committee will be able to review the status of its work at the next meeting.

Adjournment:

With no further business to come before the committee, the meeting was adjourned at 2:51 p.m.

Approval:

The minutes of the April 13, 2017 meeting of the Finance, Taxation, and Economic Development Committee were approved at the May 11, 2017 meeting of the committee.

/s/ Douglas R. Cole
Douglas R. Cole, Chair

/s/ Karla L. Bell
Karla L. Bell, Vice-chair