Office of Budget and Management
John R. Kasich
Governor
Timothy S. Keen
Director

Ohio Constitutional Modernization Commission
Committee on Finance, Taxation and Economic Development

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Testimony of Kurt Kauffman
Acting Assistant Director, Office of Budget and Management

Introduction

Chairman Cole, Vice Chair Bell and members of the Finance, Taxation and Economic Development Committee, good morning. Thank you for this opportunity to provide testimony on the Article VIII Reports and Recommendations which are the subject of today's Committee meeting. Today marks the third time the Office of Budget and Management (OBM) has testified before you. As you may recall, I testified back in June 2013 on the subject of State debt authorizations and limitations and, in October 2015, OBM Director Tim Keen provided comprehensive testimony on the history of Article VIII and Ohio's current debt position, and offered recommendations for potential modifications to Article VIII. Director Keen and I work regularly with the Constitutional provisions subject to the jurisdiction of this Committee and certainly appreciate the important work you are doing to modernize these provisions.

Ohio Debt Authorization and Issuance - Present Day

Prior to addressing the Reports and Recommendations before the Committee today, I thought it might be helpful to review the framework within which State debt is authorized and issued. The debt authorization and issuance hierarchy can generally be illustrated as follows:

Constitution (Enacted and Amended by Popular Vote)

- Authorizes the purpose(s) and program(s) for which debt may be issued
- Sets limitations on the amount of debt (e.g., total amount and/or annual amount and/or maximum amount outstanding, expiration date, maximum term, etc.)
- Establishes the pledged security (G.O. v. Subject to Appropriation v. Revenue)
- Provides for State tax exemption (if applicable)
- Subject to these provisions and limitations, authorizes the General Assembly to pass laws providing for the issuance of debt….

State Law (Enacted/Amended by the General Assembly)

- Implements the debt issuance authority in accordance with the Constitutional authorizations and limitations
- Establishes programmatic requirements and parameters
- Identifies the debt issuer, creates bond improvement and bond service funds, sets requirements for moving monies for debt service payments

Capital Appropriations (Enacted/Amended by the General Assembly)

- In accordance with constitutional and statutory parameters, makes biennial appropriations for capital projects and programs
- Provides the needed amount of bond issuance authority to the bond issuer for that particular bond funded program

Bond Issuer (Established by State Law)

- In accordance with constitutional and statutory parameters (including the bond issuance amounts set in the capital bill):

  i) Approves the issuance of a specific series of bonds to fund enacted capital project appropriations

  ii) Establishes bond issuance terms and conditions, including method of sale (competitive v. negotiated), issuance amount, financing team participants, term, etc.

It is important to note that the Constitutional debt authorizations, with the exception of debt for veterans' bonus programs, provide that the General Assembly provide by law for the issuance of debt, including designation of the bond issuer. This empowers the General Assembly to modernize debt issuance functions as deemed necessary. This approach has served the State well as illustrated by the organizational efficiencies achieved in recent years through consolidation of bonds that share the same security and source of payment within a particular State bond issuer. For example, in 2000, the General Assembly eliminated the Sinking Fund Commission as a bond issuer and consolidated the issuance of State general obligation bonds paid from the General Revenue Fund (GRF) under the Ohio Public Facilities Commission. The Ohio Public Facilities Commission – comprised of the Governor, Treasurer, Auditor, Secretary of State, Attorney General, and the Director of Budget and Management – has served as the State's most active debt issuer since its creation in 1969. In 2012, the General Assembly eliminated the Ohio Building Authority and, at the request of the Treasure of State and with the support of the Administration, transferred the OBA's lease-appropriation bond issuance responsibility to the Treasurer who issues similar types of subject-to-appropriation debt.

Today, thanks to the General Assembly's ability to enact debt issuer changes, we have in place a thoughtful and efficient organization of State debt financings in which two entities perform debt issuance functions as provided for by law: i) the Ohio Public Facilities Commission (OPFC); and ii) the Treasurer of State. The OPFC issues the State's general obligation debt backed by the GRF for K-12 and higher education, local public works infrastructure, natural resources, clean Ohio conservation, third frontier, and coal research and development. The Treasurer of State issues highway general obligation debt and lease-appropriation debt for the departments of transportation and public safety, all payable from highway user receipts, as well as major new transportation infrastructure debt that is secured by and payable from federal highway grant receipts. The Treasurer also issues lease-appropriation debt payable from the GRF for State office buildings, correctional and juvenile detention facilities, cultural and sports facilities; mental health and developmental disability facilities; and parks and recreational facilities. Additionally, the Treasurer serves as a conduit issuer for a number of bond programs that are not directly secured by State revenue.

With respect to debt management and administration, the Office of Budget and Management serves as staff of the OPFC and the manager of state debt pursuant to Ohio Revised Code Section 126.11. This includes coordinating the scheduling of State bond issuances, reviewing or approving debt service payment schedules, and serving as the lead agency for communicating with the credit rating agencies. The payment of State debt and certain reporting requirements related to State debt are carried out by the Treasurer's office.

Reports and Recommendations

Turning to the three Reports and Recommendations before the Committee, I will address them in turn. In regard to the Report and Recommendation titled 'Authorization of Debt Obligations', OBM supports the proposal to repeal the identified inactive bond issuance sections and to protect the holders of any outstanding bonds issued under those sections by confirming the bonds continue to be secured pursuant to their original terms. OBM also strongly supports the proposal to modernize the lease-appropriation debt authorizations of Section 2i by replacing them with a general obligation debt authorization. This change would be consistent with all GRF-backed debt authorizations passed by the voters since 1973, and would save taxpayer dollars by improving the credit rating and thus lowering the interest cost on all future issuances of debt for these purposes.

With respect to the second Report and Recommendation titled ‘The Sinking Fund and the Sinking Fund Commission’, OBM supports the repeal of sections 7 through 11 of Article VIII, dealing with the Sinking Fund because all of the functions historically performed by the Commissioners of the Sinking Fund are now defunct or, in the case of the Sinking Fund report required under Section 11, performed by other State entities. As noted in Director Keen’s October 2015 testimony, OBM suggests that the Committee consider replacing the debt reporting requirement with a new provision that would assign necessary debt reporting functions to the Treasurer of State.

There has been a suggestion that removal of the Sinking Fund provisions would compromise public accountability in the debt issuance process. OBM does not share that concern nor do we believe it is warranted. Our view is based on the fact that citizens must first and foremost approve debt authorizations at the ballot. That threshold approval is then followed by the opportunity for citizens to be heard at multiple points in the process, both at public meetings and through direct communication with public officeholders. So, by way of review:

1. Voters approve or reject State debt authorizations through a ballot issue;
2. The General Assembly implements new Constitutional debt authority by enacting statutes through a legislative process that welcomes public comment;

3. The General Assembly enacts specific capital appropriations in a further open legislative process, and
4. The OPFC passes bond issuance resolutions in public meetings with further opportunity for public comment at those meetings and through the six officeholders that comprise the OPFC.

These multiple opportunities for consideration of public comment at each step and by each officeholder involved in the bond authorization and issuance process provide a tremendous amount of public accountability. Moreover, following the recent successful consolidations of Ohio's debt issuers that were explained to and well received by municipal bond market participants including the credit rating agencies, unnecessary changes would risk creating uncertainty and confusion in the municipal bond market.

With respect to the third Report and Recommendations titled 'State debt', OBM supports the proposal to retain Sections 1 and 3 in their current form, and to revise Section 2 only to eliminate what would be an outdated reference to the Commissioners of the Sinking Fund.

Closing

In closing, the central concepts of Article VIII have served our state very well for more than 150 years. While work along the lines of this Committee's proposals can and should be done to modernize it, there should be a high threshold for amendments to the debt provisions of Article VIII. It's been my pleasure to testify before you today and I thank you again for the opportunity to do so. I would be happy to answer any questions you may have at this time.