



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE COORDINATING COMMITTEE

FOR THE MEETING HELD
THURSDAY, JUNE 9, 2016

Call to Order:

Chair Kathleen Trafford called the meeting of the Coordinating Committee to order at 11:03 a.m.

Members Present:

A quorum was present with Chair Trafford, Vice-chair Davidson, and committee members Abaray, Fischer, Jordan, and Sykes in attendance.

Approval of Minutes:

The minutes of the April 14, 2016 meeting of the committee were approved.

Reports and Recommendations:

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, provided a review of three reports and recommendations issued by that committee.

Article VIII, Sections 1, 2, and 3 (State Debt)

Mr. Cole began by indicating his committee has been working on Article VIII, which deals with authorizing state debt. He said the committee determined it needed to address the debt provisions in unison because they seem to be interlocking.

With regard to Sections 1, 2, and 3, Mr. Cole said the committee concluded Sections 1 and 3 can be retained in their current form, but Section 2 requires revision in order to eliminate a reference to the sinking fund. He said the committee recommends retaining the \$750,000 debt limit in Section 1 because that figure is important to public perception and the limit has not restricted state fiscal planning or growth. He said the committee is seeking to eliminate the reference to the sinking fund in Section 2 because the sinking fund sections are being recommended for

repeal. He said the committee is recommending retaining Section 3 in its current form because it expresses a public policy discouraging debt.

Mr. Cole described that Article VIII is designed to limit indebtedness, placing a strict dollar limit on the amount the state can incur in Section 1. He said Section 2 recognizes civil unrest could necessitate debt issuance in excess of \$750,000.

Providing details about the committee's consideration of the sections, Mr. Cole said the committee heard testimony about ways to approach these sections, including information about constitutional structures in other states. He said the state treasurer and the Office of Budget and Management (OBM) also provided input.

Mr. Cole said the committee hesitated to tinker with the provisions because presenters testified that the provisions are working quite well, Ohio has good reputation in the debt markets, and interfering with the status quo could inject risk into the debt market and increase the interest rates. He said the report and recommendation concludes that the committee determined to leave the debt limit in place as it is.

Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 19 (Authorization of Debt Obligations)

Mr. Cole then presented the committee's report and recommendation for sections of Article VIII dealing with authorizations for the issuance of debt obligations. He said Sections 2b through 2h, 2j, and 2k, are being recommended for repeal because they create a debt issuance authority that has been used and retired.

He said the committee is also recommending the adoption of a new Section 18 that would require any obligation entered into by the state under authority of those repealed sections to be honored, meaning outstanding bonds would be valid in the event that someone comes forward with an unpaid bond after the repeal.

He said the report and recommendation outlines the committee's recommendation for a new Section 2t to address an issue arising out of Section 2i. He said Section 2i allows lease appropriation bonds, which are less secure than general obligation bonds that are backed by the state's full faith and credit. He said a new Section 2t would change the lease appropriation indebtedness to general obligation bonds, leaving open the possibility of using lease appropriation if the General Assembly wants to, but creating a different mechanism for issuing those bonds for the purposes outlined in Section 2i.

Mr. Cole said the committee discussed an obsolescence avoidance provision that would prevent a future need to clean up the constitution when debt authorization provisions become obsolete, but this report and recommendation does not deal with that issue.

Committee member Janet Abaray expressed that the same situation could arise in the future, wondering whether a "clean up" provision should go to the voters at the same time as the repeal.

Mr. Cole said the current recommendation would not remove all of the provisions that will potentially become obsolete in the future. He said the committee felt it was ready to move on with this recommendation, preserving the ability to consider a clean up provision in the future. He said the way the state has been doing it has worked, so the committee was reluctant to make a framework change due to a concern about unintended consequences.

Article VIII, Sections 7, 8, 9, 10, and 11 (Sinking Fund and the Sinking Fund Commission)

Mr. Cole said the third report and recommendation deals with the so-called “sinking fund provisions,” sections that create a fund for paying down state debt, as well as creating a commission to oversee the fund. He said the committee is recommending the repeal of these sections out of a desire to have greater transparency and readability of the constitution. He said the sinking fund no longer exists, and the sinking fund commission no longer meets, so the committee felt repeal was in order.

Mr. Cole described that the state treasurer’s office took a different view. He said the treasurer wanted to increase the debt limit, and recommended retaining the sinking fund and commission, adopting an originalist approach. He said the committee went a different direction on that question.

Ms. Abaray asked whether the repeal would change the power of the statewide officials in relation to the Ohio Public Facilities Commission (OPFC). Mr. Cole said the makeup of the two commissions is different. He said the OPFC adds an extra member, the director of OBM, who is a gubernatorial appointee, which, in effect, gives the governor two votes on that panel. He said the OPFC is a creature of statute, so the General Assembly could change its role through statutes. He said the relative influence of the members of the OPFC could change because of this.

Mr. Cole added that the change to Section 2i was to allow for general obligation bonds rather than lease appropriation debt. He said, as a historical matter, the way debt issuance occurs is left to the General Assembly, but lease appropriation bonds have been issued through the treasurer’s office and general obligation bonds through OBM, actually through OPFC. He said the named issuer is the treasurer or OBM respectively. He said a concern that might arise is that, if the bonds issued for the purposes identified in Section 2i instead become general obligation bonds, there is a possibility that issuance authority exercised to date would be exercised by OBM. So, he said, there could be a shift.

Ms. Abaray asked whether the treasurer indicated why he supports keeping the sinking fund.

Mr. Cole said the treasurer’s view was that the structure the voters adopted in 1851 had a large chunk of general obligation debt, but left to the General Assembly to determine the purposes for which the debt was employed. He said, if one is returning to that structure, the sinking fund makes more sense.

Mr. Cole described that all three reports and recommendations passed unanimously in the Finance, Taxation, and Economic Development Committee.

Chair Trafford thanked Mr. Cole for his excellent presentation, indicating he provided assistance in explaining a complex topic.

Reminding the committee that the role of the Coordinating Committee is to review reports and recommendations as to form, rather than content, Chair Trafford asked for a motion to approve the reports and recommendations. Ms. Davidson so moved, and Ms. Abaray seconded the motion.

Upon a roll call vote, the motion passed unanimously.

Adjournment:

With no further business to come before the committee, the meeting adjourned at 11:47 a.m.

Approval:

The minutes of the June 9, 2016 meeting of the Coordinating Committee were approved at the October 13, 2016 meeting of the committee.

Kathleen M. Trafford, Chair

/s/ Jo Ann Davidson

Jo Ann Davidson, Vice-chair