



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

Finance, Taxation & Economic Development Committee

Douglas Cole, Chair
Karla Bell, Vice-chair

May 12, 2016

Ohio Statehouse
Room 017

OCMC Finance, Taxation, and Economic Development Committee

Chair Mr. Douglas Cole
Vice-chair Ms. Karla Bell
Rep. Ron Amstutz
Mr. Herb Asher
Rep. Kathleen Clyde
Ms. Jo Ann Davidson
Mr. Fred Mills
Sen. Bob Peterson
Sen. Charleta Tavares
Ms. Kathleen Trafford

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION
FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE

THURSDAY, MAY 12, 2016
12:00 NOON
OHIO STATEHOUSE ROOM 018

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
 - Meeting of April 14, 2016
[Draft Minutes – attached]
- IV. Report and Recommendation
 - Article VIII, Sections 1, 2, and 3 (State Debt)
 - Second Presentation
 - Public Comment
 - Discussion
 - **Possible Action Item: Consideration and Adoption***[Report and Recommendation – attached]*
 - Article VIII, Sections 7, 8, 9, 10, and 11 (The Sinking Fund and the Sinking Fund Commission)
 - Second Presentation
 - Public Comment
 - Discussion
 - **Possible Action Item: Consideration and Adoption***[Report and Recommendation – attached]*

V. Presentation

- None scheduled

VI. Committee Discussion

- The committee chair will lead discussion regarding the reports and recommendations as presented.

VII. Next Steps

- The committee chair will lead discussion regarding the next steps the committee wishes to take in preparation for upcoming meetings.

[Planning Worksheet – attached]

VIII. Old Business

IX. New Business

X. Public Comment

XI. Adjourn



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE FOR THE MEETING HELD THURSDAY, APRIL 14, 2016

Call to Order:

Chair Douglas Cole called the meeting of the Finance, Taxation, and Economic Development Committee to order at 11:06 a.m.

Members Present:

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

Approval of Minutes:

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

Reports and Recommendations:

Chair Cole announced that, prior to hearing presentations, the committee would hear a second presentation of a report and recommendation relating to a repeal of obsolete provisions in Article VIII and proposed new Sections 2t and 18.

Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 18

Steven C. Hollon, executive director, then summarized the report and recommendation, describing the background of the sections relating to state debt, and explaining that Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2j, and 2k are now perceived as being obsolete because they have been fully issued and paid off, or because their bonding authority has lapsed due to the passage of time. Mr. Hollon indicated the report and recommendation describes the history of the constitution's treatment of state debt, as well as litigation relating to state debt provisions. He said the report and recommendation notes the various speakers who have presented to the

committee during its review of Article VIII. Mr. Hollon said the report and recommendation, in addition to proposing the repeal of provisions identified as obsolete, also recommends the adoption of new Section 18, which would require that any obligation entered into by the state under the authority of any section of Article VIII that is later repealed remains in full force and effect and continues to be secured in accordance with the original terms of the obligation. Mr. Hollon noted that the report and recommendation encourages the General Assembly to periodically propose to voters the repeal of debt authorization sections of the constitution that have become obsolete. Mr. Hollon described that the report and recommendation finally expresses the committee's proposal for adoption of a new Section 2t, in order to authorize the issuance of general obligation bonds that could be used to refund obligations previously issued under the authority of Section 2i, and to issue new general obligation bonds for purposes related to facilities for mental health and developmental disabilities, parks and recreation, and housing branches and agencies of state government, as set forth in Section 2i.

Chair Cole recognized Representative Kathleen Clyde, who asked whether there was information available about how repeal of the obsolete provisions might appear on the ballot.

Mr. Hollon said it may be helpful to refer to reports and recommendations by the Judicial Branch and Administration of Justice Committee, in which that committee recommended repeal of two different sections. In that instance, the committee did not propose any particular language because the entire section was being recommended for repeal. He added staff would continue to research this question and report back to the committee.

Rep. Clyde asked whether there is any insight as to why a 1977 attempt to repeal these provisions was unsuccessful when it was placed on the ballot. She also wondered when the repeal of Section 2a occurred.

Mr. Hollon answered that he is not certain why the 1977 attempt failed, and identified 1953 as the year in which Section 2a was repealed.

Representative Ron Amstutz suggested that one reason for the failure of the 1977 attempt was that the 1970s Commission was concerned about the bonds that were outstanding at that time.

Committee member Herb Asher agreed with Rep. Amstutz that this may be an explanation, adding that some people may have opposed repeal because, in removing those provisions, it would have erased history or failed to recognize the contributions of veterans. He said it might help, when eliminating provisions, to place an annotation that would explain what the repealed provision did. Mr. Asher asked if staff would provide research based on media coverage from 1977. Mr. Hollon agreed staff would look into the question.

Concluding that the remarks and discussion on all three reports and recommendations might be aided by the two presenters who were appearing before the committee, Chair Cole told the committee he would suspend further review of the reports and recommendations until after the presentations.

Presentations:

Chair Cole then deviated from the agenda and turned the committee's attention to two speakers, one from the Office of the Ohio Treasurer, and the other from the Office of Budget and Management, who sought to provide remarks on the reports and recommendations under consideration by the committee.

Jonathan Azoff

Director of Office of Debt Management and Senior Counsel

Office of the Ohio Treasurer

Chair Cole introduced Jonathan Azoff, director of the Office of Debt Management and senior counsel to the Ohio Treasurer of State, who presented to the committee on the role of his office in relation to state debt.

Mr. Azoff began by describing that the state treasurer has three debt-related functions: (1) to oversee the debt issuance process for programs for which the treasurer serves as issuer; (2) to ensure the timely payment on the state's outstanding debt; and (3) to produce several legally-required reports, including the Commissioners of the Sinking Fund Semi-Annual Report.

Mr. Azoff indicated the treasurer's office is recommending several changes to Article VIII. First, he proposed the reference to the sinking fund in Section 2 should be changed to the word "state." He said this recommendation is based on the fact that a true "sinking fund" no longer exists.

He said his office also recommends the repeal of Sections 7 through 11 of Article VIII for the reason that the state no longer utilizes a sinking fund, with the duties of the Sinking Fund Commission now being performed by the treasurer's office. However, Mr. Azoff expressed the concern that removal of Sections 7 through 11 without replacement language clarifying who should perform those same duties would be detrimental to the interests of public accountability. He expressed that the committee's review provides the opportunity to recommend constitutional amendments that would reflect current statutory procedures.

In this regard, Mr. Azoff described that his office performs the ongoing roles and responsibilities of the Sinking Fund Commission, including paying debt service on the state's general obligation debt from the Commissioners of the Sinking Fund's designated bond service funds, and fulfilling the treasurer's reporting role as a member of the Commission of the Sinking Fund. He noted that the Office of Debt Management's operating expenses are funded through the Commissioners of the Sinking Fund GRF line item in the Treasurer of State's operating budget. As a result, Mr. Azoff urged the committee to recommend the retention of constitutional authorization for the performance of the Sinking Fund Commissioners' duties.

Mr. Azoff also commented regarding the committee's recommendation for a constitutional amendment that would allow the issuance of general obligation debt instead of lease-appropriation debt, suggesting that a factor that was not considered was the relative costs of the proposed amendment.

Explaining the difference between general obligation debt and lease-appropriation debt, Mr. Azoff said if the state were to default on a general obligation bond, bond holders would have the ability to bring an action to force the state to increase revenues, but lease-appropriation debt does not provide that remedy. Instead, he said, with lease-appropriation debt, the state's obligation to pay bondholders is entirely contingent on the General Assembly appropriating the funds needed to pay the debt service in its biennial budget.

He said, while there would be consequences to not paying the debt, lease-appropriation debt provides the state flexibility in the event of a fiscal emergency. He said the state pays only slightly more interest when it borrows on a lease-appropriation basis, and that investors are "familiar and comfortable with the state's lease-appropriation credit, and are willing to loan money on that basis for a similar rate, even though they lose the ability to force the state to raise revenue to repay the debt." He noted that Indiana uses more lease-appropriation debt than Ohio, yet its credit rating is the same.

Mr. Azoff asserted that the utility of lease-appropriation debt offsets other concerns, including that general obligation debt places more of a burden on taxpayers. He advocated exploring decreasing the state's general obligation debt and increasing use of the lease-appropriation debt.

Chair Cole asked whether the treasurer's authority for issuing debt under certain programs derives from statute. Mr. Azoff confirmed that this is the case.

Chair Cole additionally asked about the annual savings for the state if current lease-appropriation bonds were changed to general obligation bonds. Mr. Azoff said he does not know the amount offhand but it would be significant. Chair Cole indicated that the proposal before the committee does not require the bonds to be a particular type, but creates new issuance authority for the purposes in Section 2i and allows the General Assembly to choose between lease-appropriation and general obligation debt. Mr. Azoff said the concern of the treasurer with this proposal is that, when there is an option to borrow on a general obligation basis, the proposal supports its use and discourages lease-appropriation debt.

Rep. Amstutz asked why Indiana's use of lease-appropriation debt has not affected its credit rating. Mr. Azoff answered that Indiana has a similar constitutional structure, including a strict cap on state debt. He said, unlike Ohio that has repeatedly amended its constitution to authorize additional debt for specific purposes, Indiana has not amended its constitution other than to allow debt to be incurred on a lease-appropriation basis.

Chair Cole observed that Ohio's general obligation debt is more expensive than Indiana's general obligation debt, and Mr. Azoff agreed.

Senator Bob Peterson commented that he has no expectation that Ohio is not going to repay general debt obligations, saying he would rather have the money in the treasury because he expects Ohio will repay its debts. Mr. Azoff agreed that is reasonable analysis, saying he is not suggesting Ohio should not repay debts.

Chair Cole noted the state might want the option to default but will never exercise it, wondering why the state should pay for the option. Mr. Azoff said the state would be in dire fiscal circumstances in a scenario in which it did not repay its debt.

Committee member Kathleen Trafford asked whether there is a concern that giving alternative authority to issue general obligation bonds to the General Assembly would change the legislature's perspective on how much debt to take on, for the reason that general obligation debt is long term while the legislature has a short-term perspective.

Mr. Azoff suggested the rationale instead might be that, if it is possible to borrow more cheaply now, rather than later, the legislature would take the less-expensive route.

Mr. Asher expressed concern about the public perception of the rationale for using lease-appropriation debt, specifically because the state could save money now by using general obligation debt

Mr. Azoff said he is not sure the public discussion would be all that different, adding that the concepts should be in constitution even if the Sinking Fund is removed.

Mr. Asher rephrased his concern, stating that Mr. Azoff's message is that lease-appropriation debt renders the state less obligated on its borrowing. He said the message that will be received is that the state does not have to repay its debt. He said he is not sure that is a positive statement to make. Mr. Azoff said there is marginal increase in terms of cost, but the taxpayers are not responsible. Mr. Asher noted the flip side is that there is no binding commitment, in other words, the debt is not very well secured. Mr. Azoff noted that the bond market is still able to accommodate this type of debt.

Mr. Azoff having concluded his presentation, Chair Cole thanked him for his remarks.

Kurt Kauffman
Acting Assistant Director
Office of Budget and Management

Chair Cole introduced Kurt Kauffman, acting assistant director of the Office of Budget and Management (OBM), to provide comment related to Article VIII.

Mr. Kauffman began by recalling for the committee two other presentations his office provided on previous occasions, one in June 2013 on the subject of state debt authorizations and limitations and, again, in October 2015, when OBM Director Timothy S. 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.

As background, Mr. Kauffman reviewed the framework within which state debt is authorized and issued. He said the debt authorization and issuance hierarchy includes, at the top, constitutional provisions that are approved by voters and that authorize the purpose and programs for which debt may be issued, set limitations on the amount of debt, establish the

pledged security, provide for a state tax exemption in some cases, and authorize the General Assembly to pass laws providing for the issuance of debt.

Mr. Kauffman said the next level in the hierarchy involves statutory law, which is enacted by the General Assembly and implements the debt issuance authority in accordance with the constitutional authorizations and limitations, establishes programmatic requirements, and identifies other requirements and funds.

Mr. Kauffman also described capital appropriations, which are enacted by the General Assembly in accordance with constitutional and statutory parameters, and which are intended to provide the needed amount of bond issuance authority to the bond issuer for a particular bond funded program.

Mr. Kauffman said the hierarchy finally includes the bond issuer, which is established by state law, and approves the issuance of a specific series of bonds to fund enacted capital project appropriations and establishes bond issuance terms and conditions.

Mr. Kauffman noted 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, thus empowering the General Assembly to modernize debt issuance functions as deemed necessary.

According to Mr. Kauffman, this approach has allowed the state to consolidate bonds that share the same security and source of payment within a particular state bond issuer, thus saving money. He provided an example from 2000, when 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 (PFC).

Mr. Kauffman explained that the PFC, comprised of the governor, treasurer, auditor, secretary of state, attorney general, and director of OBM, has served as the state's most active debt issuer since its creation in 1969. Mr. Kauffman described how, in 2012, the General Assembly eliminated the Ohio Building Authority (OBA), transferring OBA's lease-appropriation bond issuance responsibility to the state treasurer who issues similar types of subject-to-appropriation debt.

Mr. Kauffman said, currently, two entities perform debt issuance functions as provided for by law, the PFC and the state treasurer. He explained that PFC 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. He said the treasurer has the responsibility for issuing 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. In addition, Mr. Kauffman said 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. He added that the treasurer serves as a conduit issuer for a number of bond programs that are not directly secured by state revenue.

Mr. Kauffman described the debt management and administration role of OBM is to serve as staff of the PFC, and to coordinate the scheduling of state bond issuances, review or approve debt service payment schedules, and act as lead agency for communication with credit rating agencies. He said the role of the treasurer's office is to pay state debt and fulfill certain reporting requirements related to state debt.

Addressing the draft reports and recommendations before the committee, Mr. Kauffman said 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. He said OBM also strongly supports modernizing the lease-appropriation debt authorizations of Section 2i by replacing them with a general obligation debt authorization. He noted 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.

Mr. Kauffman said OBM also 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. Mr. Kauffman reiterated Mr. Keen's suggestion that the debt reporting requirement be replaced by a new provision that would assign necessary debt reporting functions to the state treasurer.

Addressing a suggestion by Seth Metcalf, deputy treasurer, that removing the Sinking Fund would compromise public accountability in the debt issuance process, Mr. Kauffman said OBM does not share that concern, instead acknowledging that the interests of the public are protected by the fact that citizens always must approve debt authorization by voting for constitutional amendments. He noted multiple steps that protect public participation, among them that voters must approve a ballot issue, that the General Assembly's legislative process welcomes public comment, and that the PFC holds open meetings for the purpose of passing bond issuance resolutions.

Mr. Kauffman said these multiple opportunities for consideration of public comment protect the interests of public accountability, adding that unnecessary changes would risk creating uncertainty and confusion in the municipal bond market.

Finally, Mr. Kauffman said OBM supports the proposal to retain Article VIII, 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.

Mr. Kauffman having concluded his remarks, Chair Cole asked him about the savings for the state if general obligation debt were issued instead of lease-appropriation bonds. Mr. Kauffman

said that for each \$100 million of bonds, the savings would be from \$1.5 to \$4 million, a savings he said would repeat each year, with there being a cumulative effect.

Reports and Recommendations (Cont'd.):

Having received the testimony of the two presenters, the committee returned to its consideration of the reports and recommendations.

Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 18

The committee having had a second presentation of the report and recommendation at the beginning of the meeting, Chair Cole said the committee now would proceed to a vote on the report and recommendation, adding that the final version would include the discussion of presentations that occurred at both the March and April 2016 meetings of the committee.

Chair Cole noted that when Mr. Metcalf presented to the committee in March, he proposed additional amendment that would constitutionalize the functions of the state treasurer. He asked Mr. Azoff whether the committee could consider that question separately.

Mr. Azoff answered that the proposed amendment provided by Mr. Metcalf is intricately tied to the recommendation to repeal Sections 7 through 11. Regarding proposed Section 2t, Mr. Azoff said there is overlap because Section 2t does not express which state actor is performing the issuance function.

Chair Cole asked how the role of issuer has developed. Mr. Azoff said it seems to have been an evolution over time, with the Sinking Fund Commissioners initially performing that duty, with the PFC following. He said he is not sure there was a coherent approach, but confirmed that it is now controlled by statute.

Responding to this issue, Mr. Kauffman said there are exceptions for the veteran's bonus payments, which are designed to be self-implementing. He said those sections are longer and include implementation provisions.

Chair Cole then asked for a motion to issue the report and recommendation for Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 18. Committee member Fred Mills so moved, and Sen. Peterson seconded the motion.

A roll call vote was taken, with the following members in favor:

Doug Cole
Rep. Amstutz
Herb Asher
Jo Ann Davidson
Fred Mills
Sen. Peterson
Kathleen Trafford

Chair Cole announced that the vote passed unanimously.

Article VIII, Sections 1, 2, and 3

Chair Cole then recognized Mr. Hollon for the purposes of providing a first presentation of a report and recommendation on Article VIII, Sections 1, 2, and 3.

Mr. Hollon provided a summary of the report and recommendation, which expresses the committee's view that Sections 1 and 3 be retained in their current form, with Section 2 being revised to remove a reference to the Sinking Fund. Mr. Hollon described the history and purpose of the three sections, noting that Section 1 provides the \$750,000 debt limit that has been in effect since the adoption of the 1851 Ohio Constitution, with Section 2 allowing an exception to that debt limit in the case of civil unrest, and Section 3 emphasizing the state's strong interest in debt avoidance. Mr. Hollon also noted the report and recommendation provides information regarding the activities of the Ohio Constitutional Revision Commission in the 1970s (1970s Commission), as well as litigation related to these sections. He said the report and recommendation also summarizes the presentations to the committee on the topic. He then summarized the conclusions of the committee as expressed in the report and recommendation, noting that the committee was recommending a change to Section 2 to reflect that the Sinking Fund and Sinking Fund Commission sections of the constitution (Sections 7 through 11) were being recommended for repeal, as described in a separate report and recommendation. Thus, the report and recommendation recommends the reference to the Sinking Fund be removed from Section 2.

Chair Cole asked for public comment on the report and recommendation, and there was none.

Article VIII, Sections 7, 8, 9, 10, and 11

Chair Cole then asked Mr. Hollon to provide a first presentation on a report and recommendation for Article VIII, Sections 7, 8, 9, 10, and 11.

Mr. Hollon indicated the report and recommendation expresses the committee's view that sections of Article VIII related to the Sinking Fund be repealed for the reason that those functions are being performed by other state officers and agencies. Mr. Hollon described that the report and recommendation explains the background of Sections 7 through 11, as well as noting an unsuccessful recommendation by the 1970s Commission to eliminate these sections. Mr. Hollon said the report and recommendation also outlines the presentations to the committee on the topic. He said the report and recommendation expresses the conclusion of the committee that the provisions are obsolete because the purpose of the Sinking Fund and the duties of the Sinking Fund Commission have been replaced by other state entities primarily through authorizations contained in constitutional amendments approved by the electors of the state; and by statutory enactment made pursuant to the authorizations contained in these subsequent constitutional amendments.

Chair Cole noted that the next meeting will include a discussion of the two reports and recommendations that had been subject to a first presentation. He said he would hold the report and recommendation related to authorization of debt obligations until the committee has the

opportunity to discuss and vote on whether to issue the other two reports and recommendations, with all three reports and recommendations then being forwarded to the full Commission as a package.

Mr. Mills asked whether the next meeting of the committee would occur in May or June.

Mr. Hollon noted that the committee could meet in May, and that, if this occurs and the committee votes out the remaining two reports and recommendations, the package might be taken to the Coordinating Committee that same day and possibly to the full Commission in June.

Chair Cole said he is open to meeting in May if committee members are available. He said the committee would tentatively plan on May meeting, asking members to be prepared to discuss the reports and recommendations. He invited the presenters to attend the May meeting in order to support the committee's discussion.

Adjournment:

With no further business to come before the committee, the meeting was adjourned at 12:33 p.m.

Approval:

The minutes of the April 14, 2016 meeting of the Finance, Taxation, and Economic Development Committee were approved at the May 12, 2016 meeting of the committee.

Douglas R. Cole, Chair

Karla L. Bell, Vice-chair



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

REPORT AND RECOMMENDATION OF THE FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE

OHIO CONSTITUTION ARTICLE VIII SECTIONS 1, 2, AND 3

STATE DEBT

The Finance, Taxation, and Economic Development Committee of the Ohio Constitutional Modernization Commission issues this report and recommendation regarding Sections 1, 2, and 3 of Article VIII of the Ohio Constitution concerning state debt. It is issued pursuant to Rule 8.2 of the Ohio Constitutional Modernization Commission's Rules of Procedure and Conduct.

Recommendation

The committee recommends that Article VIII, Sections 1 and 3 be retained in their current form, and that Section 2 be revised to eliminate an outdated reference.

Specifically, the committee recommends retaining the \$750,000 debt limit in Section 1 because it is important to public perception of state spending, and because the limit has not created an obstacle to state fiscal planning or growth in the years since its adoption in 1851.

The committee further recommends a revision to Section 2 that would remove a reference to the Sinking Fund based on the committee's separate recommendation that sections of Article VIII creating the Sinking Fund and the Sinking Fund Commission be repealed.

Finally, the committee recommends Section 3 be retained in its current form for the reason that it emphasizes a public policy encouraging debt avoidance and sound financial practice.

Background

Article VIII deals with public debt and public works, and was adopted as part of the 1851 constitution. As proposed by delegates to the 1851 Constitutional Convention, Article VIII, Sections 1, 2, and 3 bar the state from incurring debt except in limited circumstances, primarily involving cash flow and military invasions and other emergencies.

Section 1 sets a strict limit on the dollar amount of debt the state may incur, providing:

The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Section 2 recognizes that civil unrest could necessitate exceeding the \$750,000 debt limit created in Section 1, and so provides:

In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

Emphasizing the importance of the limits set in Sections 1 and 2, Section 3 provides:

Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by or on behalf of the state.

Amendments, Proposed Amendments, and Other Review

The Ohio Constitutional Revision Commission (1970s Commission) studied Article VIII in depth and made extensive recommendations concerning how the state incurs debt.¹ The 1970s Commission recommended the repeal of the \$750,000 debt limitation in Article VIII, Section 1, replacing it with a limit based on six percent of the average annual revenue of the state.² In its December 31, 1972 report, the 1970s Commission proposed the following changes in relation to Article VIII, Sections 1 through 3:

- Established “a constitutional debt formula, based on a moving average of state revenues, by which the state, by a three fifths (3/5) vote of the General Assembly, could incur debt for capital improvement purposes. The proposed formula would in effect limit the amount of money which could be spent to repay such debt to six per cent (6%) of the base, which is the average of the revenues of the state, as defined in the Constitution, for the then preceding two fiscal years. The proposed formula would also limit the amount of the principal of new debt which could be issued in any fiscal year to eight per cent (8%) of the base, and require that a specific part of the total be repaid every fiscal year.”

- Continued “the authority of the state to contract debt outside the debt limit to repel invasion, suppress insurrection, and defend the state in war.”
- Authorized “short-term borrowing by the state to meet appropriations and require[d] that money borrowed for this purpose be repaid within the fiscal year in which it is borrowed.”
- Required “voter approval in a referendum for incurring debt outside the debt limit or for purposes other than capital improvements.”
- Required “the General Assembly to prescribe the methods and procedures for evidencing, refunding, and retiring state debt, and to provide for its full and timely payment.”
- Required “the General Assembly to perform certain functions of a technical nature in connection with the state's bonded debt, and impose certain duties on the Treasurer of State in regard to it.”
- Permitted “that state debt be contracted, and the credit of the state be extended, only for a public purpose declared by the General Assembly in the law authorizing such debt or use of credit.” * * *³

Some of these recommendations were the subject of the General Assembly’s 1977 ballot proposal that, among other actions, would have eliminated the \$750,000 debt limitation in Section 1, as well as the debt restrictions contained in Sections 2 and 3. As presented on the November 8, 1977 ballot, Issue 4 stated:

“PROPOSED CONSTITUTIONAL AMENDMENT

To adopt Section 1 of Article VIII and repeal Sections 1, 2, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 3, 7, 9, and 10 of Article VIII and Section 6 of Article XII of the Constitution of Ohio

1. To repeal the general state constitutional debt limit of \$750,000 and replace it with authority to incur debt for capital improvements by a two-thirds majority vote of each house of the general assembly within specified limitations directly related to state revenues.
2. To permit the state to contract debt without limitation on amount of purpose, in addition to the authority specified above, if that debt is submitted to a vote of the electors by a three-fifths majority vote of each house of the general assembly and approved by a majority of the electors voting on the question.
3. To require the general assembly to retire at least 4% of the state’s indebtedness each year.

4. To permit the state to borrow funds to meet a current year's appropriations if any such loan is repaid out of that year's revenues.
5. To repeal part of the constitutional requirements relating to a sinking fund and to require that the general assembly provide for the repayment of state debt.
6. To enumerate purposes and amounts for which the first \$640 million of capital improvement debt would have to be appropriated.

(Proposed by Resolution of the General Assembly of Ohio)⁴

Issue 4 was overwhelmingly defeated by a margin of 72.5 percent to 27.5 percent, and there has been no effort since to revise Article VIII, Sections 1, 2, or 3.⁵

Litigation Involving the Provisions

The Supreme Court of Ohio has issued two influential decisions regarding these sections of Article VIII.

In *State ex rel. Shkurti v. Withrow*, 32 Ohio St.3d 424, 513 N.E.2d 1332 (1987), the Court concluded Section 2's reference to the "present outstanding indebtedness of the state" was meant to address the state's fiscal status in 1851. In *Shkurti*, the General Assembly had enacted legislation directing the treasurer of state to issue bonds to repay outstanding advances by the federal government to the Ohio unemployment compensation program. When the treasurer refused to issue the bonds because doing so was not constitutionally authorized, the director of the Office of Budget and Management (OBM), brought an action in mandamus to compel the issuance of the bonds. Rejecting the argument that Section 2 authorized the bond issuance because the intent was to relieve the "present outstanding indebtedness of the state," the Court found the sole purpose of Section 2's exception to the Article VIII debt restrictions was to pay down the debt that existed in 1851:

First, the precise modification of "outstanding indebtedness" by the definite article "the," and the adjective "present," virtually compels this conclusion. Second, examination of the relevant constitutional debates convinces us that the then outstanding debt concerned the framers. They debated the wisdom of the sinking fund procedure for the retirement of that debt, the equity and practicality of relatively early retirement of the debt versus more extended retirement periods and, consequently, the amount that should be committed annually to the sinking fund to retire the principal and interest on the debt. The debates do not indicate any broader purpose for this exception.

Id., 32 Ohio St.3d at 426, 513 N.E.2d at 1334.

State ex rel. Ohio Funds Mgmt. Bd. v. Walker, 55 Ohio St.3d 1, 561 N.E.2d 927 (1990), presented another opportunity for the Court to consider Sections 1, 2, and 3 of Article VIII. In that case, the General Assembly sought to address General Revenue Fund cash flow issues by

enacting R.C. 113.31 *et seq.*, legislation that created the Ohio Funds Management Board (“the Board”) and authorized the state treasurer, at the recommendation of the Board, to issue “revenue anticipation notes.” As part of this procedure, the statute required the director of OBM to provide relevant financial data to the Board and the treasurer, and the OBM director refused, arguing that doing so would allow the issuance of the “revenue anticipation notes,” which are a form of state debt prohibited by Article VIII, Sections 1 and 3. The Board then pursued an action in mandamus, arguing the notes were not debt because they would not be designated as a debt, would not be guaranteed by the faith and credit of the state, and would be paid only from a special repayment fund. The Board further asserted that future taxes would not be levied to pay the notes, that taxes had already been levied, and that the issuance of the notes and the appropriation of monies to pay the notes would occur in the same fiscal year. The Court disagreed, holding that the statutory scheme that created the Board and authorized the issuance of the notes was unconstitutional:

This court, in its history of reviewing Sections 1, 2, and 3 of Article VIII of the Ohio Constitution, has been a watchful guardian of the concern of the framers of these constitutional prohibitions against the creation of state debt not authorized by the Constitution, and we feel constrained to again give heed to such concerns. There have been few exceptions to the constitutional constraints of Sections 1 and 3 of Article VIII allowed by this court. In essence such exceptions have been those financial transactions involving the erection or construction of a revenue-producing public building or facility, whose proceeds were placed in a “special fund.” [Citations omitted.]

* * *

However, both parties agree that a “special fund” obligation is not involved in the instant case. No bonds are to be issued pursuant to this new law, no facilities will be provided or constructed with the note proceeds, and no income will be generated by any facility to retire the obligations. The notes will be retired by tax revenues.

Id., 55 Ohio St.3d at 9, 561 N.E.2d at 934.

Observing that pre-existing statutes afforded the necessary devices for addressing cash flow issues, the Court held the procedure set out in R.C. 113.31 *et seq.* was unconstitutional because the scheme authorized state debt in derogation of Article VIII, Sections 1 and 2. *Id.*, 55 Ohio St.3d at 7, 11; 561 N.E.2d at 932, 935-36.

Presentations and Resources Considered

Metcalf Presentation

Seth Metcalf, deputy treasurer and executive counsel for the Ohio Treasurer of State, presented to the committee on May 8, 2014, March 12, 2015, and March 10, 2016. Mr. Metcalf pointed out that Section 1’s \$750,000 debt limitation, representing 46 percent of the state’s general

revenue expenditures at the time the limit was set, is no longer meaningful and could be raised. He did not suggest a specific figure, but pointed out that today's debt of \$10.93 billion, as constitutionally authorized by the electors of the state, represents approximately 38 percent of the state's general revenue expenditures.

As a supplement to an increased overall debt limitation, Mr. Metcalf pointed to the adoption in 1999 of Article VIII, Section 17, which contains a sliding scale under which the total debt service of the state is limited to five percent of the total estimated revenues of the state for the general revenue fund. He also pointed out that this approach would not tie borrowing to specific purposes, thus giving the General Assembly flexibility as to how to use the public debt.

Briffault Presentation

On June 4, 2015, Professor Richard Briffault of the Columbia University Law School, provided ideas for modernizing Article VIII to eliminate obsolete provisions and to prevent the need for provisions that might become obsolete in the future.

Prof. Briffault indicated that debt provisions began to be placed in state constitutions in the 1840s as a result of economic distress caused by excessive state borrowing to finance the construction of canals, turnpikes, and railroads. He described how states adopted provisions limiting state governments in their financial transactions, including limiting their ability to invest, to take an equity share in private enterprises, to lend credit, and to act as a surety. Limitations were also placed on the amount of debt that could be accumulated, as well as the procedures for entering into that debt. Prof. Briffault noted that many states, including Ohio, still have dollar caps on debt that are the same as they were in the 1840s or 1850s.

Describing the different ways states have dealt with the subject of state debt, Prof. Briffault recognized some states' approach of using a constitutional ban on debt. While those limits are considered low today, they were not necessarily low at the time of adoption. To get around the low limits, state constitutions may allow exceptions for invasion, wartime, or emergencies. He said these limitations generally apply to long-term debt, which doesn't have to be paid within the year in which it was issued, but exempt short-term debt, revenue bonds, and other nonguaranteed debt. Prof. Briffault noted that no state has learned to live without debt, with the result that, if the state constitution prohibits debt, states will amend their constitutions to allow it. The real debt limit then becomes the complicated nature of enacting a constitutional amendment, according to Prof. Briffault.

Describing other approaches states have taken, Prof. Briffault said it is possible to have a constitution with no debt limit, with the state legislative body amending the debt limit, rather than the voters doing so through an amendment process. He said another approach to debt issuance involves legislative approval followed by voter approval by a simple majority. Prof. Briffault said in this model, the procedure is for classic guaranteed debt, and doesn't cover short-term debt, revenue bonds, or non-guaranteed debt. He described another approach, in which states impose a flexible limit, or "carrying capacity," on debt. In that model, the constitution makers think the state can carry a certain amount of debt and that voter approval is not needed. He said one way states calculate this "carrying capacity" is by considering debt service as a

percentage of state revenues based upon a rolling three- or five-year average. A final approach identified by Prof. Briffault is where a state calculates the acceptable amount of debt or debt service based upon a percentage of state revenues, and then requires voter approval to go beyond that limit.

Summarizing these approaches, Prof. Briffault identified two “big pictures.” One approach is where the legislature proposes and voters decide, based on the notion that debt is long term and the decision to borrow requires a constitutional amendment. He said the other, “carrying capacity,” approach is binding, but recognizes that some financial arrangements are technical, and should not be decided by voters on a ballot proposition basis but left to the legislature to determine how much debt to devote to state enterprises. Prof. Briffault noted that some states have combined these two models.

Keen Presentation

On October 8, 2015, Timothy S. Keen, director of OBM, provided an in-depth analysis of the history and purpose of Article VIII, as well as suggestions for modernizing its debt provisions.

Mr. Keen said Ohio’s earliest debt was issued by the Ohio Canal Commission in 1825 to finance the canal system, with the General Assembly in 1837 passing the Ohio Loan Law intended to assist in the building of additional canals by loaning up to one-third of the cost of construction to Ohio businesses that were able to raise the remaining costs. In practice, however, most of the loans went to railroad companies, spurring railroad growth in the state that competed with the canal business. Mr. Keen indicated that the end result of the debt issuance was an improved transportation system, but the debt also over-extended the treasury and the state had to borrow money to meet its expenses. Mr. Keen noted that, by 1839, Ohio had a deficit of more than one quarter of a million dollars and the Ohio Loan Law was repealed the next year. After reforms of the state’s taxation and tax collection system in 1846, the debt was refinanced and Ohio was able to service the debt, but the concern over debt was a subject of discussion at the Constitutional Convention of 1850-1851. Mr. Keen pointed out that this concern is the source of the \$750,000 debt limit in Article VIII, Section 1.

Mr. Keen continued that Section 2, as well as select other sections of Article VIII, expressly authorizes the purposes and amounts for which state debt may be issued, while Section 3 prohibits any other debt except that which has been expressly authorized. Further, he said, Section 4 prohibits the state from lending its aid and credit, and Section 5 prohibits the state from assuming the debts of any political subdivision or corporation. Mr. Keen concluded that the state’s challenging financial history at the time of enactment of Article VIII explains Ohio’s conservative approach to debt, debt authorization, and debt repayment.

Turning to the present-day approach to state debt, Mr. Keen noted that, by 22 constitutional amendments approved from 1921 to the present, Ohio voters have expressly authorized the incurrence of state debt for specific categories of capital facilities, to support research and development activities, and provide bonuses for Ohio’s war veterans. He said, currently, general obligation debt is authorized to be incurred for highways, K-12 and higher education facilities,

local public works infrastructure, natural resources, parks and conservation, and third frontier and coal research and development.

He said non-general obligation lease-appropriation debt is authorized to provide facilities for housing branches and agencies of state government and their functions, including state office buildings, correctional and juvenile detention facilities, and cultural, historical and sports facilities; mental health and developmental disability facilities; and parks and recreational facilities.

Mr. Keen emphasized that Article VIII's framework for authorizing debt has served the state exceptionally well for more than 150 years. He said the process of asking voters to review and approve bond authorizations sets an appropriately high bar for committing the tax resources of the state over the long term, adding that Ohio's long tradition of requiring voter approval ensures that debt is proposed only for essential needs, and those needs must be explained and presented to voters for their careful consideration. He complimented voters, calling them "worthy arbiters," based on their having approved 26 and rejected 17 Article VIII debt-related ballot issues since 1900. As a result, Mr. Keen said he would not recommend wholesale reform to Article VIII, and advocated retaining the \$750,000 debt limit in Section 1 because it forms the basis of Ohio's balanced budget requirement.

Azoff Presentation

On April 14, 2016, the committee heard a presentation by Jonathan Azoff, director of the Office of Debt Management and senior counsel to the Ohio Treasurer of State, on the role of his office in relation to state debt.

Mr. Azoff indicated the treasurer's office supports changing the reference to the sinking fund in Section 2 to the word "state." He said this recommendation is based on the fact that a true "sinking fund" no longer exists, further noting that Sections 7 through 11 of Article VIII are recommended for repeal because the state no longer utilizes a sinking fund, with the duties of the Sinking Fund Commission now being performed by the treasurer's office.

Kauffman Presentation

Kurt Kauffman, acting assistant director of the Office of Budget and Management (OBM), appeared before the committee on April 14, 2016 to provide comment related to Article VIII.

In addition to his other comments, Mr. Kauffman said OBM supports the proposal to retain Article VIII, 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.

Additional Presentations

In addition to the major presentations by Mr. Metcalf, Prof. Briffault, Mr. Keen, Mr. Azoff, and Mr. Kauffman, as recounted above, the committee benefited from comments by Gregory W. Stype of Squire Patton Boggs (US) LLP, who serves as bond counsel to the Ohio Public

Facilities Commission; and Steven H. Steinglass, senior policy advisor to the Ohio Constitutional Modernization Commission.

On December 10, 2015, Mr. Steinglass pointed out that the framers of the 1851 constitution did not see the \$750,000 limit as a ceiling on borrowing, but rather as part of a constitutional framework that sought to bar incurring debt. He noted that the practice of incurring debt through specific constitutional authorizations did not begin until the 20th century. At the same meeting, Mr. Stype clarified that the \$750,000 limitation set out in Article VIII, Section 1, is not so much a limit on capital financing, as it is a limit on borrowing to contract debts to supply “casual deficits or failures in revenue, or to meet expenses not otherwise provided for.” Mr. Stype also noted that, in contrast to some other states, Ohio has long managed its cash flow needs in each fiscal year by using a “total operating fund” approach, rather than borrowing to meet cash flow needs.⁶

Discussion and Consideration

In reviewing Article VIII, Section 1, the committee discussed whether to recommend retaining or modernizing the \$750,000 debt limit, which dates from 1851. Although committee members recognized that the dollar amount of the debt limit is outdated, they observed that the amount is not an obstacle to state economic growth because voters have approved amendments to Article VIII authorizing the issuance of debt in excess of that amount. Committee members also recognized that raising or removing the debt limit could affect the state’s bond rating as well as potentially affecting state fiscal operations. Finally, committee members expressed concern that a change in the debt limit could be misunderstood by voters. Based on these considerations, the committee concluded that the \$750,000 debt limit in Section 1 should be retained.

With regard to Section 2, the committee recognized the need to retain the state’s ability to contract debt in the event of a calamity such as war or insurrection. However, based on the committee’s decision to recommend repeal of sections relating to the Sinking Fund and the Sinking Fund Commission, as set forth in a companion Report and Recommendation on Article VIII, Sections 7, 8, 9, 10, and 11, titled “The Sinking Fund and the Sinking Fund Commission,” the committee wondered whether the Sinking Fund reference should be removed from Section 2.

The committee considered Section 3 as being related to the question posed by Section 1, which is whether the \$750,000 debt limit should be modernized or eliminated. Section 3 prescribes a general policy of debt avoidance, emphasizing that only the debts specified in Sections 1 and 2, which are accepted as including the debts authorized by Sections 2b through 2s, shall be created by or on behalf of the state. In addressing Section 3, the committee agreed that it was important to maintain that section’s emphasis on avoiding debt, recognizing that all state debt ultimately must be approved by the voters.

Conclusion

The Finance, Taxation, and Economic Development Committee concludes that Article VIII, Section 1 should be retained in its present form. The committee recognizes that, while the debt limit of \$750,000 is outdated, proposing a new dollar amount could be problematic. The

committee further observes that the expression of a debt limit is important to the public's perception of state spending, so that eliminating the debt limit or having a debt limit that is tied to a fluctuating revenue source could affect the state's economy in unforeseen ways. Thus, the committee concludes that, because the \$750,000 debt limit is not an obstacle to the achievement of state financial goals, and because other provisions in the constitution allow the state to incur debt to meet its needs, Section 1 does not require alteration.

Regarding Section 2, the committee concludes that the section's specific reference to the Sinking Fund as a source for paying down state debt is outdated and should be replaced with the more generic word "state." Thus, the committee recommends the provision be modified to read as follows:

In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the ~~sinking fund state, hereinafter provided for,~~ as the same shall accumulate.⁷

Although Section 3's reiteration of the restriction on state debt articulated in Section 1 seems redundant, Section 3 expresses and emphasizes a laudable policy of debt avoidance. Thus, the committee does not recommend a change that might serve to diminish the importance of that objective and so recommends that Section 3 be retained in its present form.

Date Issued

After formal consideration by the Finance, Taxation, and Economic Development Committee on April 14, 2016, and May 12, 2016, the committee voted to issue this report and recommendation on _____.

Endnotes

¹ Ohio Constitutional Revision Commission Recommendations for Amendments to the Ohio Constitution, Part 2, State Debt (Dec. 31, 1972), <http://www.lsc.ohio.gov/ocrc/recommendations%20pt2%20state%20debt.pdf> (last visited Feb. 5, 2016).

² *Id.* at 23-31.

³ *Id.* at 12-13.

⁴ Source: Youngstown *Vindicator*, Nov. 6, 1977. Available at: <https://news.google.com/newspapers?id=zfRJAAAAIIBAJ&sjid=sYQMAAAAIBAJ&pg=2945,1851669&hl=en> (last visited March 28, 2016).

⁵ See <http://www.sos.state.oh.us/sos/elections/Research/electResultsMain/1970-1979OfficialElectionResults/GenElect110877.aspx> (lasted visited March 28, 2016); and <http://www.sos.state.oh.us/sos/upload/elections/historical/issuehist.pdf> (last visited March 28, 2016).

Meanwhile, voters have approved multiple constitutional amendments authorizing the issuance of state debt for the purposes of subsidizing low cost housing (Section 14, approved Nov. 2, 1982; Section 16, approved Nov. 6, 1990); financing coal research (Section 15, approved Nov. 5, 1985); financing local government efforts to improve roads, water, sewer, and other infrastructure (Section 2k, approved Nov. 3, 1987); improving parks, conservation and natural resources (Section 2l, approved Nov. 2, 1993); funding public works and highways (Section 2m, approved Nov. 7, 1995); funding school facilities (Section 2n, Section 17, approved Nov. 2, 1999); funding environmental conservation projects (Section 2o, approved Nov. 7, 2000; Section 2q, approved Nov. 4, 2008); creating jobs and stimulating economic growth (Section 2p, approved Nov. 8, 2005; amendment approved May 4, 2010); compensating veterans of the Persian Gulf, Afghanistan and Iraq Conflicts (Section 2r, approved Nov. 3, 2009); and for capital improvements (Section 2s, approved May 6, 2014). Source: Ohio Constitution Law and History Table of Proposed Amendments, Cleveland-Marshall College of Law Library, available at: <http://guides.law.csuohio.edu/ohioconstitution/ohioconstitutionamendmentstable> (last visited March 28, 2016).

⁶ R.C. 126.06 describes this process, providing:

The total operating fund consists of all funds in the state treasury except the auto registration distribution fund, local motor vehicle license tax fund, development bond retirement fund, facilities establishment fund, gasoline excise tax fund, higher education improvement fund, highway improvement bond retirement fund, highway capital improvement fund, improvements bond retirement fund, mental health facilities improvement fund, parks and recreation improvement fund, public improvements bond retirement fund, school district income tax fund, state agency facilities improvement fund, state and local government highway distribution fund, state highway safety fund, Vietnam conflict compensation fund, any other fund determined by the director of budget and management to be a bond fund or bond retirement fund, and such portion of the highway operating fund as is determined by the director of budget and management and the director of transportation to be restricted by Section 5a of Article XII, Ohio Constitution.

When determining the availability of money in the total operating fund to pay claims chargeable to a fund contained within the total operating fund, the director of budget and management shall use the same procedures and criteria the director employs in determining the availability of money in a fund contained within the total operating fund. The director may establish limits on the negative cash balance of the general revenue fund within the total operating fund, but in no case shall the negative cash balance of the general revenue fund exceed ten per cent of the total revenue of the general revenue fund in the preceding fiscal year.

⁷ In its report and recommendation titled “The Sinking Fund and the Sinking Fund Commission,” the committee recommends the repeal of Article VIII, Sections 7, 8, 9, 10, and 11. Although the committee found it more logical to review Sections 1, 2, and 3 in a separate document from Sections 7 through 11, any ballot issue proposing to repeal Sections 7 through 11 should also include a proposal to revise Section 2 to eliminate reference to the Sinking Fund.

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

REPORT AND RECOMMENDATION OF THE FINANCE, TAXATION, AND ECONOMIC DEVELOPMENT COMMITTEE

OHIO CONSTITUTION ARTICLE VIII SECTIONS 7, 8, 9, 10, AND 11

THE SINKING FUND AND THE SINKING FUND COMMISSION

The Finance, Taxation, and Economic Development Committee of the Ohio Constitutional Modernization Commission issues this report and recommendation regarding Article VIII of the Ohio Constitution concerning the Sinking Fund and the Sinking Fund Commission. It is issued pursuant to Rule 8.2 of the Ohio Constitutional Modernization Commission's Rules of Procedure and Conduct.

Recommendation

The committee recommends that Sections 7 through 11 of Article VIII dealing with the Sinking Fund and the duties of the Sinking Fund Commission be repealed for the reason that the state no longer utilizes a fund identified as "the Sinking Fund," and the duties of the Sinking Fund Commission are being performed by other state officers and agencies. These provisions include Section 7, creating the Sinking Fund; Section 8, listing the members of the Sinking Fund Commission; and Sections 9, 10, and 11, outlining the duties of the Sinking Fund Commission.

Background

Article VIII deals with public debt and public works, and was adopted as part of the 1851 constitution.

In addition to placing a limitation on the actions of the General Assembly in incurring debt, through the adoption of Article VIII, Sections 1, 2, and 3, delegates to the 1851 Constitutional Convention also adopted five sections designed to assure that any debt that was incurred by the state would be paid off responsibly through the creation and operation of a Sinking Fund. The use of such a fund was a popular method of paying off debt by the states in the 19th century.¹ The five sections that directly relate to the Sinking Fund include Sections 7, 8, 9, 10, and 11.

Section 7 creates the “Sinking Fund” for the purpose of paying accruing interest on public debt. This section provides that the fund will annually reduce the principal by a sum of not less than \$100,000, increased yearly by compounding at six percent per year. The source of the fund is described as the net annual income of the public works and stocks owned by the state, any other funds or resources provided by law, and further sums to be raised by taxation as may be required. Section 7 provides as follows:

The faith of the state being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and, annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent per annum. The said sinking fund shall consist, of the net annual income of the public works and stocks owned by the state, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

Section 8 creates a supervisory body known as “The Commissioners of the Sinking Fund,” consisting of the governor, the treasurer of state, the auditor of state, the secretary of state, and the attorney general. Although originally part of the 1851 constitution, the provision was amended in 1947 to add the governor and state treasurer to the board.² Section 8 reads:

The governor, treasurer of state, auditor of state, secretary of state, and attorney general, are hereby created a board of commissioners, to be styled, “The Commissioners of the Sinking Fund”.

Section 9 prescribes that a biennial report shall be issued by the commissioners before each session of the General Assembly. The report, which is to include information about the amount in the fund from all sources except taxation, is to be provided to the governor, who then transmits the information to the General Assembly. Relying on this information, the General Assembly is directed to make all necessary provision for raising and disbursing the fund in pursuance of the provisions of Article VIII. Section 9 states:

The commissioners of the sinking fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message, to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

Section 10 states that the commissioners shall apply the fund, along with other moneys appropriated by the General Assembly, to the payment of interest as due, as well as to the redemption of the principal of the public debt. Section 10 excludes state school and trust funds from this directive. Section 10 provides:

It shall be the duty of the said commissioners faithfully to apply said fund, together with all moneys that may be, by the general assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the state, excepting only, the school and trust funds held by the state.

Section 11 provides that the commissioners shall issue a semi-annual report describing the proceedings of the Sinking Fund Commission, to be published by the governor and communicated to the General Assembly. This report is in addition to the biennial report required by Section 9. Pursuant to Section 11:

The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall, immediately, cause the same to be published, and shall also communicate the same to the general assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

Amendments, Proposed Amendments, and Other Review

The five provisions concerning the Sinking Fund Commission were adopted in 1851, with their only amendment occurring in 1947, when Article VIII, Section 8, was adopted to add the governor and the state treasurer to the commission.³ Therefore, the commission now includes all five statewide officeholders.

The Ohio Constitutional Revision Commission (1970s Commission) studied Article VIII in depth and made extensive recommendations concerning how the state incurs debt.⁴ The 1970s Commission recommended the repeal of unnecessary provisions concerning the Sinking Fund and the Commissioners of the Sinking Fund, explaining:

The Commission proposes the repeal of Sections 7 through 11 of Article VIII, which deal with the Commissioners of the Sinking Fund and their duties, and the Sinking Fund itself. Whatever justification these sections might have had at one time, in the Commission's view they no longer serve a useful constitutional purpose. The very concept of the sinking fund, in which large sums of money are accumulated until they are needed to pay bonds at maturity, has fallen into disfavor. Today, the bond which is the norm for public financing is the serial bond: "State and local debt nowadays is almost always in serial form, that is, when the debt is incurred, provision is made for annual retirement of the principal, so that the annual carrying charge for a twenty-year issue includes a sum sufficient to redeem, say, one-twentieth of the principal, as well as a sum of interest." [citing James A. Maxwell, *Financing State and Local Governments*, rev. ed. (Washington, The Brookings Institution, 1969) p. 185.] However, in suggesting the deletion of sections relating to the Sinking Fund, the Commission is not suggesting that the General Assembly should not have the power to establish either a sinking fund or a sinking fund commission, should it desire to

do so, and hence Section 1 of the proposed Article VIII would provide ample authority to do so. The deletion of these sections is recommended only because the Commission believes that these sections are not needed in the Constitution.⁵

In November 1977, the General Assembly submitted a ballot issue to the voters that, among other changes, proposed repealing Sections 7, 9, and 10 dealing with the Sinking Fund. However, voters rejected Issue 4 by a margin of 72.5 percent to 27.5 percent, with an over one million vote difference.⁶

Litigation Involving the Provisions

There has been no litigation directly related to Sections 7, 8, 9, 10, and 11.

Presentations and Resources Considered

Metcalf Presentations

Seth Metcalf, deputy treasurer and executive counsel for the Ohio Treasurer of State, presented to the committee on May 8, 2014, March 12, 2015, and March 10, 2016. In addition to reviewing the history of Article VIII, including the \$750,000 debt limitation in Section 1, Mr. Metcalf addressed the role of the Sinking Fund Commission. Originally adopted as a safeguard, he said the commission is no longer playing an active role in managing the payment of the debt. In fact, Mr. Metcalf noted that the commission has not been an active issuer of state debt since 2001. Mr. Metcalf suggested the state should continue to involve the five statewide executive officeholders in the debt issuance process, further opining that the constitutional references to the Sinking Fund should be replaced with references to the state treasurer, or to the Ohio Public Facilities Commission, which currently issues most of the state's general obligation debt and is comprised of those five statewide officeholders and the director of the Office of Budget and Management (OBM).⁷

Keen Presentation

On October 8, 2015, Timothy S. Keen, director of OBM, provided an in-depth analysis of the history and purpose of Article VIII, as well as suggestions for modernizing its debt provisions.

For the purpose of improving efficiency, Mr. Keen advocated eliminating Sections 7 through 11. He noted that the Commissioners of the Sinking Fund – originally consisting of the attorney general, auditor and secretary of state – were established in 1851 to administer a fund that would pay-off, or “sink,” the state's then-existing canal and railroad debt, and to report their activities and progress to the governor and General Assembly. Over the years, the duties of the commissioners expanded to include administering and issuing many types of state debt, with the governor and treasurer being added to the commission in 1947. In the 1950s, new state bond programs began to use dedicated bond service funds separate from the sinking fund, with debt service payments effectuated by the treasurer and OBM. Then, in 2001, the General Assembly transferred bond issuance authority from the commissioners to the Ohio Public Facilities Commission. As a result of these changes, all of the functions historically performed by the

Commissioners of the Sinking Fund are now performed by other state entities, indicating that the sinking fund provisions of Article VIII are viable candidates for repeal.

Azoff Presentation

Jonathan Azoff, director of the Office of Debt Management and senior counsel to the Ohio Treasurer of State, presented to the committee on April 14, 2016 regarding the role of his office in relation to state debt.

Among the changes recommended for Article VIII, Mr. Azoff proposed the reference to the sinking fund in Section 2 should be changed to the word “state.” He said this recommendation is based on the fact that a true “sinking fund” no longer exists. Mr. Azoff further indicated his office supports the repeal of Sections 7 through 11 of Article VIII for the reason that the state no longer utilizes a sinking fund, with the duties of the Sinking Fund Commission now being performed by the treasurer’s office. However, Mr. Azoff expressed the concern that removal of Sections 7 through 11 without replacement language clarifying who should perform those same duties would be detrimental to the interests of public accountability. He expressed that the committee’s review provides the opportunity to recommend constitutional amendments that would reflect current statutory procedures.

In this regard, Mr. Azoff described that his office performs the ongoing roles and responsibilities of the Sinking Fund Commission, including paying debt service on the state’s general obligation debt from the Commissioners of the Sinking Fund’s designated bond service funds, and fulfilling the treasurer’s reporting role as a member of the Commission of the Sinking Fund. He noted that the Office of Debt Management’s operating expenses are funded through the Commissioners of the Sinking Fund GRF line item in the Treasurer of State’s operating budget. As a result, Mr. Azoff urged the committee to recommend the retention of constitutional authorization for the performance of the Sinking Fund Commissioners’ duties.

Kauffman Presentation

On April 14, 2016, Kurt Kauffman, acting assistant director of the Office of Budget and Management (OBM), appeared before the committee to provide comment related to Article VIII.

Mr. Kauffman said OBM supports the repeal of Sections 7 through 11 of Article VIII, 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. Mr. Kauffman reiterated Mr. Keen’s suggestion that the debt reporting requirement be replaced by a new provision that would assign necessary debt reporting functions to the state treasurer.

Addressing a suggestion by Seth Metcalf, deputy treasurer, that removing the Sinking Fund would compromise public accountability in the debt issuance process, Mr. Kauffman said OBM does not share that concern, instead acknowledging that the interests of the public are protected by the fact that citizens always must approve debt authorization by voting for constitutional amendments. He noted multiple steps that protect public participation, among them that voters

must approve a ballot issue, that the General Assembly’s legislative process welcomes public comment, and that the PFC holds open meetings for the purpose of passing bond issuance resolutions.

Mr. Kauffman said these multiple opportunities for consideration of public comment protect the interests of public accountability, adding that unnecessary changes would risk creating uncertainty and confusion in the municipal bond market.

Finally, Mr. Kauffman said OBM supports the proposal to retain Article VIII, 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.

Discussion and Consideration

In reviewing the provisions relating to the Sinking Fund and the Commissioners of the Sinking Fund, the committee considered whether the provisions are obsolete for the reason that the widespread use of bonds for the purpose of raising funds, and the transfer of the duties of the commissioners to other state agencies, has left the Sinking Fund Commission with little to do. In considering this concern, the committee found it persuasive that the commissioners have not met since 2008, and that many of the duties assigned to the commissioners are now performed by other state officers and agencies.

The committee also considered language in Article VIII, Section 2 that refers to the Sinking Fund as a source for paying down the “present outstanding indebtedness of the state.” Based on its preference to eliminate the Sinking Fund and related provisions, the committee considered whether it would be appropriate to recommend removal of the reference to the Sinking Fund, replacing it with a generic phrase allowing the state to pay state indebtedness.

Conclusion

Upon consideration of the foregoing, the Finance, Taxation, and Economic Development Committee concludes that Sections 7, 8, 9, 10, and 11 of Article VIII (dealing with the Sinking Fund and the duties of the Sinking Fund Commission) are obsolete for the reason that the purpose of the Sinking Fund and duties of the Sinking Fund Commission have been replaced by other state entities primarily through (i) authorizations contained in constitutional amendments approved by the electors of the state; and (ii) by statutory enactment made pursuant to the authorizations contained in these subsequent constitutional amendments. Thus, the committee recommends these sections be repealed.

As further described in the committee’s report and recommendation relating to Article VIII, Sections 1, 2, and 3, titled “State Debt,” the committee also recommends that Section 2 be revised to eliminate the reference to the Sinking Fund.⁸

Date Issued

After formal consideration by the Finance, Taxation, and Economic Development Committee on April 14, 2016, and May 12, 2016, the committee voted to issue this report and recommendation on _____.

Endnotes

¹ See, e.g., Henry C. Adams, *Public Debts: An Essay in the Science of Finance* 384 (New York: D. Appleton 1890). For a discussion of the history of the use of the sinking fund, see Donald F. Swanson and Andrew P. Trout, *Alexander Hamilton's Hidden Sinking Fund*, 49 *William and Mary Quarterly* 108 (1992).

² Steven H. Steinglass & Gino J. Scarselli, *The Ohio State Constitution* 275 (2nd prtg. 2011).

³ *Id.* at 275, app. B.

⁴ Ohio Constitutional Revision Commission Recommendations for Amendments to the Ohio Constitution, Part 2, State Debt (Dec. 31, 1972), <http://www.lsc.ohio.gov/ocrc/recommendations%20pt2%20state%20debt.pdf> (last visited Feb. 5, 2016).

⁵ *Id.* at 39-40.

⁶ Steinglass & Scarselli, *supra* at app. B.

On the November 8, 1977 ballot, Issue 4 stated:

“PROPOSED CONSTITUTIONAL AMENDMENT

To adopt Section 1 of Article VIII and repeal Sections 1, 2, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 3, 7, 9, and 10 of Article VIII and Section 6 of Article XII of the Constitution of Ohio

1. To repeal the general state constitutional debt limit of \$750,000 and replace it with authority to incur debt for capital improvements by a two-thirds majority vote of each house of the general assembly within specified limitations directly related to state revenues.
2. To permit the state to contract debt without limitation on amount of purpose, in addition to the authority specified above, if that debt is submitted to a vote of the electors by a three-fifths majority vote of each house of the general assembly and approved by a majority of the electors voting on the question.
3. To require the general assembly to retire at least 4% of the state's indebtedness each year.
4. To permit the state to borrow funds to meet a current year's appropriations if any such loan is repaid out of that year's revenues.
5. To repeal part of the constitutional requirements relating to a sinking fund and to require that the general assembly provide for the repayment of state debt.
6. To enumerate purposes and amounts for which the first \$640 million of capital improvement debt would have to be appropriated.

(Proposed by Resolution of the General Assembly of Ohio)”

Source: Youngstown *Vindicator*, Nov. 6, 1977. Available at:
<https://news.google.com/newspapers?id=zfRJAAAAIIBAJ&sjid=sYQMAAAAIBAJ&pg=2945,1851669&hl=en>
(last visited March 28, 2016).

⁷ R.C. 151.02. *See also*, <http://obm.ohio.gov/BondsInvestors/publicfacilities.aspx> (last visited Feb. 8, 2016).

⁸ If the General Assembly should place a ballot issue before the voters to repeal Sections 7, 8, 9, 10, and 11 of Article VIII as recommended herein, the committee recommends the ballot issue also contain a proposal to revise Section 2 to delete reference to the Sinking Fund, as more fully discussed in the committee's report and recommendation on Article VIII, Sections 1, 2, and 3 (State Debt).

Finance, Taxation, and Economic Development Committee

Planning Worksheet (Through April 2016 Meetings)

Article VIII – Public Debt and Public Works

Sec. 1 – Public debt; limit of deficit spending by state (1851)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 2 – State may incur debts for defense or to retire outstanding debts (1851)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 2b – Adjusted compensation for service in World War II; World War II veterans' bonuses (1947)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2c – Construction of state highway system (1953)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2d – Korean War veterans’ bonus (1956)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2e – Providing means for securing funds for highway and public building construction (1955)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2f – Authorizing bond issue to provide school classrooms, support for universities, for recreation and conservation and for state buildings (1963)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2g – Authorizing bond issue or other obligations for highway construction (1964)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2h – Bond issue for state development (1965)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2i – Capital improvement bonds (1968)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2j – Vietnam conflict compensation fund (1973)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2k – Issuance of bonds for local government public infrastructure capital improvements (1987)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 2l – Parks, recreation, and natural resources project capital improvements (1993)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2m – Issuance of general obligations (1995)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2n – Facilities for system of common schools (1999)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2o – Issuance of bonds and other obligations for environmental conservation and revitalization purposes (2000)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2p – Issuance of bonds for economic and educational purposes and local government projects ((2005, 2010)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2q – Issuance of bonds for continuation of environmental revitalization and conservation (2008)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2r – Persian Gulf, Afghanistan, and Iraq conflicts compensation fund (2009)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2s – Issuance of bonds for municipal and county roads, bridges, waste water treatment (2014)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Proposed Sec. 2t – Issuance of bonds for mental health and developmental disabilities ()							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Sec. 3 – The state to create no other debt; exceptions (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 4 – Credit of state; the state shall not become joint owner or stockholder (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 5 – No assumption of debts by the state (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 6 – Counties, cities, towns, or townships, not authorized to become stockholders, etc.; insurance, etc. (1851, am. 1912)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 7 – Sinking fund (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 8 – The commissioners of the sinking fund (1851, am. 1947)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 9 – Biennial report of the sinking fund commissioners (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 10 – Application of sinking fund (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 11 – Semiannual report of sinking fund commissioners (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	4.14.16						

Sec. 13 – Economic development (1965, am. 1974)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 14 – Financing for housing program (1982)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 15 – State assistance to development of coal technology (1985)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 16 – State and political subdivisions to provide housing for individuals (1990)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 17 – Limitations on obligations state may issue (1999)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Proposed Sec. 18 – Outstanding debt or obligation remains in full force and effect (____)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved
Completed	3.10.16	4.14.16	4.14.16				

Article XII – Finance and Taxation

Sec. 1 – Poll taxes prohibited (1851, am. 1912)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2 – Limitation on tax rate; exemption (1851, am. 1906, 1912, 1918, 1929, 1933, 1970, 1974, 1990)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2a – Authority to classify real estate for taxation; procedures (1980)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 3 – Imposition of taxes (1976)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 4 – Revenue to pay expenses and retire debts (1851, am. 1976)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 5 – Levying of taxes (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 5a – Use of motor vehicle license and fuel taxes restricted (1947)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 6 – No debt for internal improvement (1851, am. 1912)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 9 – Apportionment of income, estate, and inheritance taxes (1912, am. 1930, 1976)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 11 – Sinking fund (1912)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 13 – Wholesale taxes on foods (1994)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Article XIII - Corporations**Sec. 1 – Special acts conferring corporate powers; prohibited (1851)**

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 2 – Corporations, how formed (1851, am. 1912)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

**Sec. 3 – Liability of stockholders for unpaid subscriptions; dues from corporations; how secured; inspection of private banks
(1851, am. 1903, 1912, 1937)**

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 4 – Corporate property subject to taxation (1851)

Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 5 – Corporate power of eminent domain to obtain rights of way; procedure; jury trial (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 6 – Organization of cities, etc. (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

Sec. 7 – Acts authorizing associations with banking powers; referendum (1851)							
Draft Status	Committee 1 st Pres.	Committee 2 nd Pres.	Committee Approval	CC Approval	OCMC 1 st Pres.	OCMC 2 nd Pres.	OCMC Approved

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

2016 Meeting Dates

June 9

July 14

August 11

September 8

October 13

November 10

December 8