

## Ohio Constitutional Modernization Committee – June 9, 2016

Chairman Cole and members of the Finance, Taxation, and Economic Development Committee: good morning. Thank you for the opportunity to again appear before you on behalf of State Treasurer Josh Mandel. I currently serve as the Director of the Office of Debt Management at the Treasurer's office.

Director Hollon asked me to present to the Committee on the duties of the Treasurer, the Treasurer's involvement in the Commissioners of the Sinking Fund, and to address whether there should be a constitutional provision giving the Treasurer of State the responsibility of reporting on State debt.

### Role of the Treasurer's Office with Respect to the Debt of the State of Ohio .

Currently, the Treasurer's office has three core functions with respect to State debt. The first is to serve as an issuer. The Treasurer issues the State's general obligation highway debt, the state's GARVEE transportation bonds, the state's lease-appropriation debt, and serves as a conduit issuer for the State's Federal and State Infrastructure Bank Programs, the Ohio Enterprise Bond Program, and the Community College Intercept Program. The Treasurer's office also performs certain duties as a member of the Ohio Public Facilities Commission (OPFC) in connection with OPFC issuances.

The Treasurer's office's second core debt-related function is to ensure the timely payment of the State's approximately \$11 billion in outstanding debt. The Treasurer acts as paying agent and bond registrar for all general obligation debt and coordinates debt payments via corporate bond trustees for revenue and special obligation debt. Additionally, the office calculates payments on State-issued swap agreements and evaluates remarketing agent performance on the State's outstanding variable rate obligations.

The Treasurer's office's third core function is to report on the State's debt.

### Treasurer of State and the Commissioners of the Sinking Fund

There is significant overlap between the duties I just outlined and those responsibilities delegated in the Ohio Constitution to the Commissioners of the Sinking Fund. As you know, Article VIII, Section 8 creates the five-member body known as the Commissioners of the Sinking Fund. Sections 9 and 11 delegate reporting functions to the Commissioners, while Section 10 holds the Commissioners of the Sinking Fund accountable for the payment of interest and the redemption of principal of the State's debt.

As has been discussed, the Commissioners of the Sinking Fund have not met since 2008. However, the Commission's constitutionally delegated duties are being performed. For example, the Treasurer's office has, for at least the last 47 years, prepared the Commissioners of the Sinking Fund Semi-Annual Report, and distributed it twice a year to the Governor and all members of the General Assembly. As it states in the report's cover letter, the "semi-annual report is designed to provide the State of Ohio's citizens, taxpayers, customers, investors, and creditors with a general overview of the State's general obligation bonds, and to demonstrate accountability for the money the State borrows." The report details general obligation bond activity for the preceding six-month period and provides extensive financial information regarding the State's ten types of outstanding general obligation bonds.

In addition to that reporting function, the Treasurer performs the Commission's duty to pay interest and redeem the principal on the State's general obligation debt. When the Treasurer's office performs this function, it does so as the Commissioners of the Sinking Fund. In fact, the Commissioners of the Sinking Fund receive appropriations in every State operating budget for this very purpose. In fiscal year 2016, for example, the Commissioners of the Sinking Fund were appropriated more than \$1.1 billion. The Office of Debt Management at the Treasurer's office uses these appropriated funds—transacting as the Commissioners of the Sinking Fund in the State's accounting system—to timely pay the State's outstanding debt from the Commissioners of the Sinking Fund's designated bond service funds.

As I mentioned in my last testimony, the Treasurer does not have independent legal authority to perform many of these tasks. In other words, while the Commissioners of the Sinking Fund may not be actively meeting, the legal framework that is in place provides the requisite authority for the Treasurer's office, as a member of the Commission, to perform those duties. If the Constitutional Modernization Committee is to move forward with the recommendation to repeal Sections 7 through 11 of Article VIII—as this Committee voted to do at its last session—clean-up will be needed.

#### Constitutional Provision to Provide Treasurer of State With Responsibility of Reporting on Debt

To that end, a constitutional amendment providing for the Treasurer of State to report on the State's debt would fill one void created by the proposed repeal of Sections 7 through 11. It would continue the historical tradition of the semi-annual report, but most importantly, it would retain an important principle that was enshrined in the Constitution in 1851: publicly elected officials should demonstrate accountability for the money the State borrows and for which taxpayers are ultimately responsible to repay.

However, the Treasurer's office continues to believe that the Committee should not stop there. The other core concept that would be lost with the repeal of Sections 7 through 11—accountability for the payment of the State's debt—should be addressed as well. Deputy Treasurer Metcalf provided a proposed amendment that would maintain such accountability by expressly charging the Treasurer's office to perform that function.

In short, the Treasurer's office is of the belief that the archaic Commissioners of the Sinking Fund can be modernized without removing the Constitutional accountability for statewide elected officials that was put in place at the Constitutional Convention of 1851. There has not been testimony indicating that that safeguard is no longer necessary. Nonetheless, in an effort to simply modernize the outdated Commissioners of the Sinking Fund terminology, those safeguards would be lost.

Fortunately, the State of Ohio's fiscal condition is strong. However, a simple look at the fiscal condition of several of our nation's largest states and cities is a reminder that the concerns that led to the addition of these safeguards at the time of the enactment of Article VIII are still meaningful. Holding statewide elected officials accountable in the Constitution for the management, reporting, and payment of the State's debt should continue. If the Committee is to recommend the repeal of Sections 7 through 11 of Article VIII in their entirety, a new provision creating a duty for the Treasurer of State to report on the State's debt is an appropriate step, but the Treasurer's office, respectfully, urges the Committee to go further.

Thank you again. I would be happy to answer any questions at this time.

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