



OHIO TOWNSHIP ASSOCIATION

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**House Finance Committee
HB 64
Interested Party Testimony
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Good morning Mr. Chairman and members of the House Finance Committee. On behalf of the Ohio Township Association (OTA), thank you for the opportunity to testify before you to express our views on items included in House Bill 64, the biennial budget bill, that impact townships.

Proposed Increase in LGF Revenue

Members should note that the OBM forecasts show significant increases in the amount of LGF revenue to be received; however, the methodology that is used to accomplish these increases is based on the premise that the General Assembly supports various forms of tax changes proposed by the Governor. One of those proposed changes, to the Kilowatt Hour (KWH) tax, will increase state GRF by a projected \$65.3 million, but will at the same time reduce the size of the LGF and PLF by \$4 million. Likewise, while it is laudable to lower the personal income tax rate (PIT), note that most township residents are already not subject to a municipal income tax and each reduction of the state level PIT has an impact on local governments. When the PIT is reduced, lower amounts are collected and added to the overall general revenue fund (1.66% of the GRF funds the LGF). If the political will of the General Assembly is to modify the KWH tax and lower the PIT, we ask that hold harmless language be added to protect the distribution of resources and the continued work of local governments.

Severance Tax

The OTA appreciates that the Administration recognized that with a proposed increase in the severance tax a portion must be earmarked for local governments for infrastructure and long-term economic development purposes. Make no mistake the activities of the oil and gas industry related to fracking are occurring in township jurisdictions. All of the 779 producing wells in the Marcellus and Utica shale play are in townships. According to the latest report from ODNR released last week, those wells produced 3.6 million barrels of oil in the fourth quarter of 2014, an increase of 545,000 barrels over the previous quarter. Gas production was 164.8 billion cubic feet of natural gas, up 33 billion cubic feet from the 3rd quarter of 2014. An additional 116 wells were brought into production in the last quarter of 2014. We do not object to this activity; however, as you have heard me testify in the past, our members want to insure that the roads, bridges and water supplies that our residents rely on are not degraded and left in an unusable position after the activities are completed.

However, we understand that the level of proposed severance taxation is being met with resistance in the General Assembly and is higher than what this chamber proposed last session. The OTA will not

comment on an appropriate level of taxation. I must remind you that in last year's proposal there were hold harmless provisions added to protect local governments since HB 375 contained income tax cuts in addition to the severance tax increase. In the House Bill 64 severance tax proposal these provisions were not included. We would request inclusion of language to protect the LGF if it is the will of the committee to execute any change to the current severance taxation and to reduce PIT at the same time.

We appreciate the fact that HB 64 specifically allocates a portion of the severance tax revenue for local governments. However, we believe the Ohio shale products regional commission proposed in the bill should be composed primarily of local government officials. We would also suggest that townships and other local governments be given notice and the opportunity to present evidence of local needs prior to allocation of funds to local governments within the county.

Removal of Sales Tax Collection Exemption for Political Subdivisions

Included in the budget proposal is language that eliminates a sales and use tax exemption in current law on any sale of a service by the state or any of its political subdivisions. Local governments would have to tax any sales of services meeting the definition of taxable services such as replacing a culvert for a resident, recreation facility fees and contracting police services for outside events. We do not support this expansion of government, especially if it is government to government services that are being provided, nor do we want to charge our residents an additional surcharge to utilize the services that we provide to them. Current law should prevail in this instance.

Increase in Tobacco Tax

Ohio levies a charge on every person desiring to engage in the wholesale or retail business of trafficking in cigarettes. The township in which the charge originates shall receive 37.5% of the total wholesaler fees and 62.5% of the total retailer fees. The proposed increase in the tobacco tax will have a significant impact on the townships located in border counties. The \$1.00 increase in the cigarette tax and the 60% increase in the OTP tax and the brand new tax on vapor will lead to downstream negative results that the Administration and the Tax Department are not accounting for in their calculations. First, Ohio will be the highest taxed state of our neighbors for each of these categories. Research shows increases in these taxes will cause cross-border sales and a loss of revenue in Ohio. Included in the cross-border sales losses are not just tobacco products, but sales of gasoline, which taxation assists in funding the maintenance of township roads. Additionally, there is anticipated loss of employment for residents in these border county townships coupled with the possibility of loss of retail establishments that whittle away the property tax base and affect the quality of life of township residents.

Phase Out of TPP & Public Utility Dereg Reimbursements

House Bill 64 proposes to accelerate the phase-out of these reimbursements to schools and local governments. Townships are partially reimbursed for the loss of TPP tax revenue due to the elimination of the TPP tax back in 2005 as part of a tax reform. Replacement payments are based on levies approved prior to Sept. 1, 2005 (but only if the levy is still in place) and on TPP values that existed as of Aug. 31, 2005. The kilowatt hour and natural gas distribution taxes were created to replace revenues lost due to tax changes made by Senate Bill 3 & Senate Bill 287 (123rd General Assembly) regarding utility deregulation. Since 2002, townships have received “replacement” revenues in the form of payments. Initially, the amount distributed to each township was based solely on the amount of money that each jurisdiction lost due to public utility personal property tax changes made by the two bills. Included in HB 153 (129th GA) was language that provided for a reduction in tangible personal property (TPP) tax and public utility tangible property (dereg) tax reimbursements to schools and local governments. This reduction was originally proposed as a phase-out but the General Assembly recognized the devastating impact the revenue reduction would have on schools and local governments and only provided for a limited reduction period after which time the payments continue for the life of the levy.

Townships are heavily reliant on the property tax, thus this phase-out will more drastically impact townships than other forms of local government. According to a spreadsheet released by the Ohio Department of Taxation, in 2014 townships were reimbursed \$24.56 million for TPP tax lost and nearly \$3 million in dereg revenue lost. These numbers only account for township levies, not special district levies of which townships are a part such as fire, EMS or parks.

For example, Harris Township in Ottawa County received over \$87,000 in TPP revenue prior to the elimination of the tax and now only receives roughly \$45,000. Allen Township in Union County currently receives over \$1 million in TPP reimbursements due to a very heavy manufacturing base in the community. Without that revenue, the township will be forced to go to the ballot to request over 12 mills of funding just to support the current level of services being provided. The TPP reimbursements in Weathersfield Township in Trumbull County represent 13% of the township’s tax revenue. The township has already experienced a 24% reduction in the township’s general fund revenue as a result of the reduction in LGF, elimination of the estate tax and the first round of TPP phase-down in 2012.

Woodville Township in Sandusky County stands to lose \$37,000 in TPP reimbursement. This is revenue they use to fund their 27-member volunteer fire department and 24/7 emergency medical service to residents and businesses.

The OTA strongly urges the General Assembly to continue the reimbursement to townships at the current level.

REQUEST FOR ADDITIONAL AMENDMENTS

In continuing to work in the spirit of the last two General Assemblies, we have put together items for possible inclusion in HB 64 that would provide flexibility to townships as it relates to tax policy. On behalf of the 1,308 townships in Ohio, we respectfully request consideration of the following amendments not currently addressed in HB 64.

Additional Revenue for Townships

Included in SB 243 of the 130th General Assembly, townships received a one-time cash infusion of \$10 million to be transferred from the Local Government Innovation Fund. The \$10 million is to be divided two ways. The first \$5 million is to be equally divided among Ohio's 1,308 townships. The remaining \$5 million is to be divided by the number of miles of road in each township. Again, this one-time cash infusion is only for the remaining six months of FY 2015. While we are grateful for the \$10 million infusion to our members, we believe a compelling case for additional funding can be made. I don't need to remind this Committee that townships do not levy income or sales taxes and do not receive casino revenue.

Use of Tax Levy Revenue for Attorney Fees

The Ohio Attorney General opined that a township may not use revenues generated from a fire levy or a police levy for legal expenses incurred by the board to address collective bargaining issues involving township fire and police employees (2014-028). The result of this opinion is that townships will be forced to pay those costs attributed to fire, EMS and police services from their general funds, which are severely depleted due to the loss of revenue streams.

It is common practice in many townships to expect and require the police and fire departments to operate completely from the revenues generated from their specific levies designated for those purposes with no assistance from the township's general fund. This has become even more prevalent in recent years with the reduction of LGF funds to local government. This practice has developed largely because the funds provided by general operating are limited and are needed to fund general township operations such as building operations, paying staff and bills and similar expenses which are not payable with "special levies." It is also common practice for townships to retain legal counsel for a variety of purposes in addition to collective bargaining. These issues can include personnel matters such as grievances, disciplinary matters, review of language for ballot language, bond counsel for public construction projects and other issues.

While the ORC requires the prosecuting attorney of a county to act as the "legal counsel" for townships, most lack staffing, money and time to thoroughly address these types of issues. A legislative fix is

needed to allow townships to expend funds generated by “special purpose levies” for the payment of legal counsel for personnel matters. Unions are ably represented by labor law experts in these matters; management needs the same sort of assistance on its side of the table.

If the General Assembly amends the law to address these concerns, there needs to be consideration given to making these accommodations applicable to existing levies. It should be further recognized when addressing this concern that some townships may have all continuing levies so this accommodation will have to be permanent as there is not any way ensure that a phased approach will extend the accommodations to all areas.

Example:

In 2014, Jackson Township in Stark County had to use \$16,758 of general fund money, instead of fire, police and EMS levy funds, to pay for attorney fees associated with collective bargaining, arbitration, and labor issues. Over a six year period, Jackson Township has spent over \$73,000 of general fund revenue on these expenses.

The OTA recommends amending R.C. §5705.19(I) & (J) to specifically permit levy proceeds from fire, EMS and police levies to be used for “all related costs,” which would include collective bargaining expenses.

Use of Private Auction to Purchase Real & Personal Property

If the fair market value of township property to be sold is, in the opinion of the board, in excess of \$2,500, the township may offer the items for sale by public auction or sealed bid. Additionally, R.C. §505.10(D) permits a township to sell personal property, including motor vehicles, road machinery, equipment, tools, or supplies, that is not needed for public use, is obsolete, or is unfit for the use for which it was acquired, by Internet auction.

The ability of a township to purchase items by public auction is a different matter. A township may participate in an auction held by the federal or state government for surplus items. However, they may not purchase goods, materials, equipment, tools or supplies at a general public auction. Counties, pursuant to R.C. §307.083, have the ability to purchase land at public auction so long as a maximum purchase price is established by the board or appraisal obtained prior to the sale. The OTA requests similar authority in R.C. Chapter 5 that would allow a township, after proper notification, a public hearing and with maximum bidding levels authorized at said public meeting, to purchase real or personal property at public auction.

Payment of Township Bills Online

The State Association has received numerous complaints from township fiscal officers and legal counsel that state law is not clear on the authority of a township to pay bills online due to the fact that pursuant to R.C. §507.11(B) requires all expenditures to be signed by two trustees.

R.C. §9.37 permits a township to have a direct deposit program for employees. Language in R.C. §9.37 also provides for the payment of contracts online, however, R.C. §507.11(B) prohibits a township fiscal officer from paying out township funds unless an order is signed by at least two trustees. The two sections have created confusion amongst township officials and legal counsel. The Ohio Township Association requests that §507.11 be amended to clearly state that electronic bill pay is permitted pursuant to requirements in R.C. §507.11(B) and R.C. §9.37.

Authority to Accept Credit Cards

The state (R.C. §113.40) and counties (R.C. §301.28) have the ability to authorize the acceptance of payments by financial transaction devices for state and county expenses. This includes a credit card, debit card, charge card, prepaid or stored value card or automated clearinghouse network credit, debit, or e-check entry. Expenses include fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person owes or otherwise pays the state or county. The State has had this authority since 1999; counties have had this authority since 2001. The OTA requests the same explicit authority in R.C. Chapter 5 for townships.

Sale of Township Vehicle to Another Political Subdivision

The Ohio Township Association is requesting that R.C. §505.101 include language allowing a township to contract with another political subdivision for the sale or purchase of a motor vehicle. This request came to us from a township in Seneca County. Thompson Township wanted to sell a motor vehicle valued above \$2,500 to a neighboring political subdivision. When the two entities went to the prosecutor to work out arrangements, the prosecutor stated that the township had to follow advertising and competitive bidding laws.

R.C. §505.10 lays out the procedure by which a township may accept and dispose of township property. R.C. §505.10(A)(1) states that if the fair market value of the unneeded or unwanted property is above \$2,500, a township has a variety of ways in which to dispose of the item(s). Pursuant to current law (R.C. §505.101), a township may, without advertising or bidding, contract with another political subdivision, the state or federal government for the purchase of goods and supplies. Counties, pursuant to R.C. §307.12(D), may sell or donate county property, including motor vehicle, to any political subdivision, the state or federal government, without advertising. R.C. §505.101 does not include the words “motor

vehicles” like county statute does. Again, the OTA is requesting that R.C. §505.101 include language allowing a township to contract with another political subdivision for the sale or purchase of a motor vehicle, without advertising or bidding.

Additional Budget Requests

Below is a list of additional governance flexibility amendments that will be sought through the Committee’s consideration of House Bill 64.

- Provide for a hearing in R.C. §505.86, which permits a township to remove unsafe buildings
- Ability to resell cemetery lots purchased prior to 1986
- Adjust tax increment financing (TIF) law to require township sign off on TIFs created by a municipality when territory is still a part of the township
- Permit townships to place a cemetery levy on the ballot for a continuous period, as opposed to just five years

Mr. Chairman and members of the Committee, thank you for the opportunity to testify and for your consideration of our requests. I would be happy to answer any questions that you may have.