



# OHIO TOWNSHIP ASSOCIATION

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## **House Finance Committee HB 49 Interested Party Testimony March 30, 2017**

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 49, the biennial budget bill, that impact townships, as well as suggestions for additional language.

### **Local Government Fund & Township Funding**

Included in HB 49 is language codifying the percentage (1.66%) of the total tax revenue credited to the general revenue fund that is dedicated to the Local Government Fund. Additionally, there is language codifying the \$10 million distribution to townships, first started in 2014.

House Bill 49 also includes a new alternative LGF distribution formula that is based on tax capacity of local jurisdictions. Tax capacity represents the degree by which the subdivision's (in this case, township) per capita tax base deviates from the average per capita tax base of the subdivision class. The formula is to be funded by diverting a portion of the 1.66% dedicated to the LGF.

The Governor's proposal will negatively impact approximately 30% of Ohio's townships. Should additional funding be made available, the Governor's proposal would be worth considering. We just don't feel that money should be siphoned from the existing LGF pot. Considering that the LGF pot was already reduced by 50% in 2011, townships lost the estate tax in 2013 and the state accelerated the phase out of Tangible Personal Property (TPP) tax and electric deregulation reimbursements over the last 5 years and the elimination of the 10% rollback on new and replacement levies, we firmly believe that ALL of our townships need ALL of the current revenue they are receiving. Should the members of the General Assembly find NEW money to fund this NEW distribution formula, this would definitely be a more palatable idea.

### **Centralized Collection of Income Taxes Imposed By Municipal Corporations**

Our interest in this topic focuses on two economic development tools that townships are given the statutory authority to use - Joint Economic Development Zones (JEDZs) and Joint Economic Development Districts (JEDDs). As stated in the Code, both JEDZs and JEDDs were created with the purpose of facilitating economic development. House Bill 49 defines a "municipal corporation" to include JEDZs and JEDDs. In both the JEDZ and JEDD, the contracting parties have the ability to share revenue derived from the income earned by persons employed by businesses that locate within the Zone

or the District. In plain English, a municipal income tax that is collected within the area is shared between municipal and township partners. To the extent that HB 49 strives to bring uniformity to the municipal income tax process, it serves a laudable goal. However, it seems clear that HB 49 could impact the revenue generated on behalf of JEDZs and JEDDs. Municipalities and townships are contractually bound to provide services and other contributions under JEDZs and JEDDs, but these provisions of HB 49 could decrease the revenue townships receive via JEDZs and JEDDs in exchange for those services. These potential revenue losses are in addition to other funding cuts which townships have already experienced.

### **Multi-Health District a Taxing Entity**

Townships and municipalities, where applicable, are required to provide funding to the health district. The cost to support the district is apportioned based on taxable valuations in townships and municipal corporations (ORC §3709.28). The cost is allocated to a township's general fund, which has been depleted over the last few years.

Several years ago the General Assembly created the Legislative Committee on Public Health Futures. The Legislative Committee agreed on 11 recommendations and concepts but the recommendation that the Ohio Township Association really feels should be implemented is the multi-district public health levy.

Current law allows for a health district to request a levy to help support the health district. Current law also permits up to five contiguous jurisdictions to merge, contract or consolidate into one district. The Legislative Committee recommended that the restriction of five districts be eliminated, as well as the requirement that the districts be contiguous. Whether jurisdictions are contiguous or not, the health districts could cross county lines, thus the need for multi-district public health levies. This is something that can easily be done, as there are examples in the Revised Code for other services. For example, townships have the ability to create joint fire districts or EMS districts. There is no limit on the number of jurisdictions that may participate in the joint district. These districts could consist of two townships or 20 and can cross county lines. The fire or EMS district has the legislative authority to place a levy on the ballot district-wide to provide services.

We feel a multi-district public health levy could be set up in the same manner. Included in HB 49 is language permitting a general health district that was formed under the "Union of General Health Districts" section of the Code, R.C. §3709.10, to adopt a resolution to place the question of a levy on the ballot within the union health district.

### **Township Road Bid Requirements**

Per R.C. §5575.03, no contract for any township road improvement shall be awarded at a price more than ten percent in excess of the estimated cost prepared by the county engineer. Unfortunately, there is

no incentive for a prospective bidder to come in significantly under budget when the engineer has provided the estimated cost. There may be competition, but money is left on the table when the bidders know the approximate cost of the job and, that if the township is bidding the work, the township must have the money available to pay the estimated amount. The OTA is very appreciative that the Governor included this suggestion in HB 49 so that prospective bidders are not told the estimated amount by the county engineer prior to submitting bids (R.C. §§5575.02, 5575.03).

### **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 \$0.65 increase in the cigarette tax and the 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.

### **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 49 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 49.

#### ***Permit Commercial Advertising on a Township Website (would not apply to a dot.gov site)***

Many townships across the state utilize a website to be used as a public information service. The township websites provide easy access to officials, personnel, public issues, safety, policy documents and other general information for the community. A township website may contain links to outside websites to provide information to the public regarding services available to the public from the township. There is a financial cost to the township to create, maintain and update its website. The OTA encourages the inclusion of permissive authorizing language allowing a township to sell commercial advertising on its website as a means to defray the cost of providing the service.

***Clarify Township Transient Vendor Law***

R.C. §505.94 permits a board of township trustees to require registration by vendors and impose time, place and manner restrictions on sales calls. There have been several federal court cases that have nullified certain aspects of R.C. §505.94 and, thus, the OTA is requesting clarification of Ohio law so that township resolutions would not violate the court decisions.

***Eliminate a County Judge's Role in the Transfer of an Unexpended Balance When the Ohio Tax Commissioner has Approved Such an Action***

Pursuant to R.C. §5705.14, a township may transfer an unexpended balance in a special fund to the township's general fund when the activity, service, or undertaking for which the special fund was created has terminated. Before such funds may be transferred, a township shall pass a resolution at a public meeting declaring the necessity for the transfer of funds, prepare a petition for the court of common pleas of the county for authorization of such transfer and forward said petition to the tax commission for approval (R.C. §5705.16). Should the tax commissioner approve the request, the township shall file the petition with the court of common pleas. The township shall give notice once in a newspaper of general circulation of the filing, object and prayer of the petition and the time when it will be heard. If a newspaper of general circulation is not available, notice shall be posted in 10 conspicuous places within the township for four weeks. If upon the hearing, the court finds that notice has been given, the petition states the facts, there is good reason or a necessity exists to transfer the funds and that no injury will result in said transfer, the court shall grant the request for transfer. All costs of such proceedings shall be paid by the township, except if objections are filed the court may order such objectors to pay all or a portion of the costs. In an effort to streamline government, the OTA is seeking an amendment that would eliminate the requirement to have a hearing before the court of common pleas and that the determination of the tax commissioner be final. The removal of this duplicate step would save the township money in advertising, filing fees and court costs.

***Require a Board of Township Trustees to Elect a Chairman Each Year***

There are places in the Ohio Revised Code that speak to the Chair of the Board of Township Trustees but there is no section in the Code that actually requires a township to select a chairman of the Board. Whereas, R.C. §305.05 requires a board of county commissioners to meet the second Monday of January each year to select a board president for a one year term. The OTA is seeking an amendment that would require a board of township trustees at the first meeting of the calendar year to select a Board Chair to serve for one year.

***Permit a Township to Create a New Community Authority Regardless of Acreage***

Ohio Revised Code Chapter 349 permits New Community Authorities (NCA) to be created in a township or a municipality. However, if a NCA is created wholly inside a municipality or more than half of the proposed NCA district is contained within a JEDD, there is no minimum acreage requirement. If the NCA is located in a township and the JEDD requirement is not met, then the NCA has to have a minimum acreage of 1,000 acres to be considered. (R.C. §349.03(A)(3)) The OTA is seeking an amendment that would remove the minimum acreage requirement. This would provide yet another tool in the development toolbox for townships.

***Building Codes for Limited Home Rule Townships***

The OTA is seeking an amendment that would enable limited home rule townships to adopt building codes regardless of any similar codes adopted by the county in which the township resides. Presently, the ORC prevents limited home rule townships from creating their own building departments in cases where the county has already established a similar department. Limited home rule townships are permitted to operate their own building departments if the county does not offer that service. The amendment will simply extend that privilege to limited home rule townships in cases where counties do operate their own building departments. The amendment is permissive and applies only to limited home rule townships- of which there are only 32 in the state. The amendment provides flexibility for a small number of local governments and has no fiscal impact.

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