

TEL/TABOR SPELLS DISASTER *for* OHIO PUBLIC LIBRARIES

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Secretary of State and candidate for Governor Ken Blackwell has authored the Tax and Expenditure Limitation (TEL)/Taxpayer's Bill of Rights (TABOR) constitutional amendment. This amendment will appear on the November 2006 ballot as a result of a petition drive. Although the simple political rhetoric of this proposal may be appealing to some, the passage of this amendment will be disastrous for Ohio public libraries.

The following chart identifies the impact of this amendment on Ohio public libraries. The left column is the actual language from the proposed constitutional amendment. Only language that is specific to public libraries is included in this overview. The right column explains the impact this language will have on public libraries. For the complete text of the TEL/TABOR, visit the OLC Web site (www.olic.org).

The defeat of the TEL/TABOR is a top priority in 2006 for the Ohio Library Council. The OLC will be working with a coalition of other local government associations, business groups, community leaders, and many, many others to defeat this misguided constitutional amendment.

It is important to understand the impact that this will have on each library. The OLC will be providing more information and materials to help educate patrons during the months ahead. Please contact Lynda Murray, Director of Government and Legal Services, at (614) 416-2258 or lmurray@olic.org, with any questions.

ACTUAL TEL/TABOR CONSTITUTIONAL LANGUAGE	IMPACT ON PUBLIC LIBRARIES
<p><i>Section 14 (D) Local Government Fund. A local government fund is hereby created in the state treasury for the purpose of providing a minimum level of state funding to political subdivisions.</i></p>	<p>Although this language does not specifically call for the elimination of the current Library and Local Government Support Fund (LLGSF), the general assembly, facing huge cuts in the state budget because of the TEL/TABOR, will certainly vote to eliminate it.</p>
<p><i>Each fiscal year, moneys equal to not less than five percent of the aggregate state expenditures for the preceding fiscal year shall be appropriated to the local government fund by the general assembly.</i></p>	<p>Any limited growth for local governments under this TEL/TABOR will be a year behind any state growth. Currently, the percentage of the state budget that goes to local government, NOT INCLUDING SCHOOLS, is more like 7.25%. This would be a substantial reduction.</p>
<p><i>Which moneys shall be distributed by the treasurer of state from the local government fund proportionally to each county in at least two equal installments by not later than the end of the fiscal year, in accordance with legislation enacted by the general assembly.</i></p>	<p>All of the money “earmarked” for ALL local governments, including public libraries, will be sent to the county. The county will distribute the money to each of the political subdivisions. Money will be distributed to the counties by a formula determined by the general assembly. Local governments include police, fire, EMS, schools, municipalities, villages, counties, mental health boards, etc.</p>
<p><i>All moneys appropriated to the local government fund pursuant to this subsection shall be subject to the expenditure limitation as provided in subsection (A) of this section.</i></p>	<p>The Local Government Fund cannot increase more than the “allowable rate”—Midwest Rate of Inflation plus the rate of population change or 3.5%, whichever is greater. Even though the fund may have this rate of minimal increase, there is no guarantee that the rate of increase will be passed along by the counties to the local political subdivisions. Pressures for police, fire, and other safety services will likely take precedence over public libraries.</p>
<p><i>Section 14 (E) Tax and Spending Limitations on Political Subdivisions. (1) No political subdivision of the state shall</i></p> <p><i>(a) increase aggregate political subdivision expenditures for a fiscal year by an amount that exceeds the aggregate political subdivisions expenditures for the previous fiscal year beyond the allowable rate for a political subdivision,</i></p> <p><i>(b) levy a new tax, or</i></p> <p><i>(c) increase the rate of an existing tax, without first obtaining the approval of a majority of electors in that political subdivision.</i></p>	<p>The same spending limit placed on state spending is imposed on political subdivisions, including public libraries...the previous year expenditure plus Midwest Rate of Inflation and rate of population change. The only way spending can be increased beyond the spending limit is by going to the ballot and getting a majority of all of the registered voters to approve the spending increase, pass a new tax, or increase an existing levy.</p> <p>Note: Passing a ballot issue by a majority of all registered voters—not just a majority of those voting in the election—is almost impossible considering the number of registered voters vs. voter turn out. Ohio has an abysmal record in maintaining current voting records. In addition, there is no language that permits public libraries to go on the ballot except for levies.</p>

ACTUAL TEL/TABOR CONSTITUTIONAL LANGUAGE	IMPACT ON PUBLIC LIBRARIES
<p><i>(E) (2) The general assembly, by legislation, shall provide a mechanism to adjust the amount of the limitations as provided in subsection (E)(1) as a result of any subsequent annexation, creation of a new political subdivision, or any consolidation or change in the boundaries of a political subdivision.</i></p>	<p>If political subdivisions, like libraries, consolidate, the general assembly will recalculate their expenditure limitation for the following fiscal year.</p>
<p><i>(F) Definitions. As used in this section: (1) "Aggregate political subdivision expenditures" means the sum of all expenditures made by a political subdivision, except that "aggregate political subdivision expenditures" shall not include expenditures of moneys (a) received from the federal or state government, (b) for refunds of any kind, (c) received as grants, gifts, donations or bequests which are to be expended for purposes specified by the donor, or</i></p>	<p>LSTA grant money and other federal money, Gates grants and other grant money, private donations, and bequests are not included in the expenditure limitation, as long as they are used for the purposes stated by the donor. State "grant" money (e.g., Department of Education READ grant) is not subject to the expenditure limitation, but state money coming through the local government fund IS subject to the expenditure limitation. The ability of libraries to save money for some future building or rainy day fund will be a thing of the past ...libraries may be able to save for it, but they won't be able to spend it. It will be impossible to save for and then purchase a new circulation system without a vote of the electors.</p>
<p><i>(d) made pursuant to an ordinance resolution which (i) authorizes temporary expenditures for the sole purpose of providing relief directly related to an emergency, (ii) specifically identifies by appropriation item the amount and purpose of each temporary expenditure and the specific source of the revenue necessary to fund each temporary expenditure and the specific source of the revenue necessary to fund that expenditure, (iii) limits the temporary expenditure to the amount and specific purpose identified in the ordinance or resolution, (iv) provides for the expenditure of all federal, state or other funds for the emergency, and (v) receives the affirmative vote of not less than three-fifths of the member of the legislative authority of that political subdivision</i></p>	<p>Expenditures for emergency situations like a fire or flood may exceed the spending limitation. However, they require a three-fifths vote by the legislative authority of that political subdivision. This means that the taxing authority (school board, county commissioners, etc.) of the public library would have to pass this authorization.</p>
<p><i>(7) "Political subdivision" means any county, municipality, village, township, education district, library district, other special district, or any other taxing district of the state which is directly supported by tax funds.</i></p>	<p>This amendment "earmarks" 5% of state revenue for local governments, but includes schools, fire, police, EMS, public hospitals, mental health boards and many others not included in the current distribution of local government funds.</p>

The Center for Community Solutions (www.communitysolutions.com) has developed a spreadsheet to calculate the impact the TEL/TABOR amendment would have had on public libraries in Ohio if it had been in place for the past 10 years. A small library, the Salem Public Library, and a large metropolitan library, the Public Library of Cincinnati & Hamilton County, completed the spreadsheet. Here are the results:

"The TEL/TABOR will be devastating to us or any library in the state. If it had been in effect since 1993, we would have seen annual funding reductions as high as 25%, which would threaten our continuing operation. A small library like ours just cannot take those kinds of hits year after year. We have not replaced staff members who have left the library since our last good year of funding in 2001. We continue to cut our materials budget as we struggle against costs over which we have little or no control: OPERS, utilities, health care, etc. Despite the reductions we have more patrons and demand for more service. Circulation is up throughout the library. Our children's circulation increased 24% in November and 29% in October. Attrition has reduced the staff by 13%. My remaining staff can barely keep up and there seems to be no end in sight."

– George W. S. Hays, Director, Salem Public Library

"We're still evaluating the numbers, but it looks like the Public Library of Cincinnati & Hamilton County's budget would have been reduced by \$14 million in 2003 if the TEL amendment had been in effect. That means we would have been forced to shut down 26 of our 41 branches. Services at the main library would have to be changed significantly. Patrons would also experience possible reductions in hours of operation, number of programs offered, and resources available. This all translates into fewer libraries, fewer services, fewer books, and fewer jobs."

– Kim Fender, Director, Public Library of Cincinnati & Hamilton County

Estimated Revenue Loss if TEL/TABOR had been in effect 1993 – 2003.

**Salem Public Library:
\$1.6 million revenue loss**

**Public Library of
Cincinnati & Hamilton County:
\$183.5 million revenue loss**

COLORADO TABOR SUSPENDED

On November 2, 2005, Colorado voters approved a five-year moratorium on the state's Taxpayer Bill of Rights (TABOR). Colorado is the only state to have implemented such a restrictive constitutional spending limitation causing local governments to continually lose revenue from the state with no ability to make up the lost revenue. Since the passage of the TABOR in 1992, Colorado's local governments went to the ballot numerous times asking voters to approve increased spending. Rural local governments had an even harder time getting increased spending ballot issues passed. It was nearly impossible for local governments in Colorado to save money for emergencies because the amendment counted reserves as expenditures and, therefore, provided a disincentive to place revenue in a reserve account. The effects of the TABOR have been dramatic. Colorado now ranks last in child immunizations, near last in terms of percentage of gross product reinvested in higher education, and the state's roads and bridges are in severe need of repair.

If Ohioans approve a similar TEL/TABOR Constitutional Amendment currently proposed by Secretary of State Ken Blackwell, the expenditure limitation placed on local governments would cut the very programs and services that residents want and depend upon. Services such as police, fire, EMS, and public libraries will all be affected. Education, human services, parks, and prisons will be affected as well.

TEL/TABOR QUESTIONS AND ANSWERS

Q. Does the TEL Amendment limit the growth of the state budget?

A. Yes. Aggregate state expenditures may only increase from the previous year by the sum of the rate of inflation and the rate of population change. The only exception to this is if the General Assembly passes a specific increase that meets the following four criteria: (1) identifies each line-item excess and the revenue source available to pay for it; (2) limits the "excess" to only the one purpose identified in the bill; (3) receives a three-fifths vote from both the House and the Senate; and (4) if the Governor also signs the measure, it is approved by a majority of the voters at the next statewide election. So, for example, if the state experienced a substantial increase in snowfall from one year to the next (in a fashion that wouldn't qualify as an emergency), and the expenditures for snow removal had to be increased over the rate of inflation and population from the previous year, that money would have to come from some other part of the budget. If there isn't any money available elsewhere in the budget, then the only response would be to increase overall expenditures, which would require a three-fifths vote of the House and Senate and concurrence of the Governor, followed by a trip to the ballot for a vote by the people.

Q. So, if state spending only grows at the rate of inflation but the economy recovers and state revenues grow at a rate greater than inflation, what happens to that additional revenue?

A. The TEL amendment sets up a budget reserve fund. Any additional revenues are placed in the reserve fund. When the fund exceeds 15% of the aggregate state expenditures from the preceding year, the excess money is immediately refunded by the treasurer of state on a pro rata basis to all individuals who paid Ohio income tax in the preceding calendar year.

Q. If the TEL amendment does not eliminate the LLGSF, how will it impact library funding?

A. Because of the other tax and expenditure limitations constitutionally required by this amendment, there simply would not be any money available to fund the LLGSF. It is most likely that the Ohio General Assembly would be forced to eliminate the LLGSF.

Q. Does the TEL amendment address local government funding at all?

A. Yes. The TEL amendment requires that the Ohio General Assembly establish a local government fund for the purpose of providing state funds to political subdivisions of the state. Each fiscal year, the state would have to deposit in that fund five percent (5%) of the aggregate state expenditures. A formula would be developed by the Ohio General Assembly to determine how this money would be distributed to each of the state's 88 counties. The counties would then distribute the money from this fund to each of the political subdivisions in the county, including libraries, cities, townships, villages, schools, police, fire, parks, etc.

Q. Does the TEL amendment restrict growth in library expenditures?

A. Yes. Libraries will not be able to authorize an increase in their "aggregate expenditures" beyond the previous year by more than the rate of inflation and population change EXCEPT by passing a levy or new tax, or increasing the rate of an existing tax. Note that "aggregate expenditures," when tested at the library level, do not include money received from the state or federal governments or money from gifts/bequests. So, if, miraculously, libraries were allocated more money from the replacement for the LLGSF, or if a library received a large gift, spending all of the increases in that money would not constitute an increase in "aggregate expenditures." Conversely, since state assistance does not count in calculating aggregate expenditures at the library level, if state assistance decreased, the library could not use other sources of funds to make up for the loss without triggering the "aggregate expenditure" limitation. In effect, at the library level, the restriction means that libraries will not be able to increase their expenditures from non-levy, non-gift, non-state or federal government sources (i.e., fines or services revenue, investment income, or other similar revenue sources).

Q. Would the TEL amendment require public libraries to seek a vote of the people in their service area to increase their spending beyond the rate of inflation and population formula?


A. Yes, if the source of the funds to cover the increase came from something other than federal or state government, tax relief, gift or bequest, or something directly related to an emergency (declared by the Governor). This would mean that grants, fines, funds to replace lost items, fees for services are not revenue that can be included in increasing library aggregate expenditures.

Q. How do public libraries get on the ballot for voter approval to increase their aggregate expenditures beyond the rate of inflation and population formula?

A. There is no language that permits public libraries to go on the ballot except for levies. The OLC will need to attempt to change the Ohio Revised Code.

Q. Does the TEL amendment require anything more than a simple majority to pass a local levy or other tax increase?

A. It could.

Visit the OLC Web site at www.olic.org to find out more about the TEL/TABOR proposal. Please direct questions to Director of Government and Legal Services, Lynda Murray, at lmurray@olic.org. 

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