MEMORANDUM OF OHIO BOND COUNSELS

TO:	Policy Stakeholders
FROM:	Bricker Graydon Wyatt LLP; Calfee, Halter & Griswold LLP; Dinsmore & Shohl LLP; FBT Gibbons LLP; Squire Patton Boggs (US) LLP
DATE:	February 27, 2026
SUBJECT:	Proposed "Abolishment of Taxes on Real Property" Amendment: Legal and Related Analysis

EXECUTIVE SUMMARY

The proposed 2026 initiative petition to add Section 14 to Article XII of the Ohio Constitution seeks to completely prohibit any taxation on real property. This would eliminate over $20 billion[1] in annual local revenue without a constitutionally mandated replacement mechanism.

The potential aftereffects described below are intended to reflect reasoned outcomes immediately following amendment approval without consideration given to any state or local assistance.

1. BOND MARKET IMPACT

The expected immediate impact of amendment approval will be on the municipal bond market.

- **Bond Security:** Ohio local governments have nearly $22.3B of outstanding general obligation (GO) bonds for facilities and infrastructure[2]. Such GO bonds are either (1) legally secured by the "full faith and credit," which intrinsically relies on the unvoted 10-mill limit ("inside millage") of property taxes[3]; or (2) a voted property tax approved concurrently with the bonds and committed solely to debt service.

- **Potential Aftereffect 1:** Abolishing the underlying security for GO bonds effectively violates existing bond covenants. Credit rating agencies (Moody's, S&P) will likely trigger immediate downgrades of Ohio GO bonds to "junk" status. Public utility personal property taxpayers are left as the sole source of repayment.[4] The credit market for Ohio local governments freezes, pausing or terminating financings for fundamental capital projects.

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[1] See Ohio Office of Budget and Management memorandum "Consequences of Local Property Tax Abolishment" dated February 4, 2026.

[2] Reuters 2026.

[3] Additionally, Ohio Const. Art. XII, § 11 mandates that whenever debt is incurred, a direct tax must be levied annually to pay the principal and interest. In the unvoted GO bond context, this is met by pledging inside millage. This is codified in Ohio Revised Code §133.23(C).

[4] See Ohio Legislative Service Commission analysis "Repeal of Property Taxes" dated September 16, 2025.

- **Potential Aftereffect 2:** Any replacement security for property taxes may be viewed by rating agencies and investors as less secure than property taxes, and as such, more expensive. Local government debt supported by income taxes and/or sales taxes may bear a higher rate of interest, costing Ohio taxpayers more to borrow the same amount of principal.

- **Potential Aftereffect 3:** Local government reliance upon income tax and/or sales tax revenues as security for local debt issuances (where applicable) will be subject to annual budgetary approvals and economic fluctuation and, therefore, a great deal of uncertainty and instability. These risk factors may increase borrowing costs in Ohio and eliminate market access for some political subdivisions.

- **Potential Aftereffect 4:** Local governments will lose the most expedient and efficient source of financing infrastructure needed for common public services, such as police, fire and EMS.

- **Potential Aftereffect 5:** The State Treasurer's Ohio Market Access Program (OMAP) and Ohio School District Credit Enhancement Program (OCEP) no longer function as viable means to obtain credit support for local governments and school districts, as they both rely upon GO obligations for participation.

- **Potential Aftereffect 6:** Voted bond issues and inside millage will remain in place until all existing, outstanding GO debt is repaid. See discussion immediately below.

2. LITIGATION POTENTIAL

Enacting an absolute prohibition on real property taxation also triggers immediate, cascading breaches of existing legal frameworks and fiduciary obligations. The question of whether a newly ratified state constitutional amendment immediately supersedes existing state statutes and constitutional provisions remains an open issue and will likely be the subject of protracted litigation.

- **Federal Contracts Clause (U.S. Const. Art. I, § 10):**

    - **Law:** Article I, Section 10 of the U.S. Constitution prohibits states from passing any law "impairing the Obligation of Contracts." This is mirrored in Ohio's contract clause (Ohio Const. Art. II, § 28; see also Ohio Revised Code § 133.25).

    - **Conflict:** Under Ohio law, as noted above, GO bonds issued by local governments are legally secured by property taxes. This security exists in the form of a pledge within the authorizing legislation and the debt instrument itself.

    - **Potential Aftereffect:** Abolishing real property taxes destroys the primary revenue stream pledged to bondholders. A state cannot amend its own constitution to erase the security legally pledged to existing creditors. Not only would this cause a constitutional and statutory framework at odds with itself, but it raises serious breach of contract concerns for local governments at all levels.

- **Tax Increment Financing (TIF):**

  - **Conflict:** Certain Ohio local governments utilize TIFs to fund infrastructure. These instruments rely on revenue bonds backed by Service Payments in Lieu of Taxes (PILOTs).

  - **Potential Aftereffect:** Under Ohio law, PILOTs are calculated based on the assessed real property tax rate. If the tax rate is automatically reduced to $0, the PILOT is $0. As a result, the underlying revenue bonds enter immediate, systemic default, causing potential for mass litigation from bondholders or bond trustees against Ohio local governments. This is likely to have a material negative impact on commercial, retail, and entertainment businesses throughout Ohio. In addition, many development agreements are structured so that "minimum service payments" are payable in the event that statutory PILOT payments are not made, causing private developers and financial institutions across Ohio to become primarily responsible for payments on debt issued for the benefit of development projects.

3. FUNDING AUTHORITY OF LOCAL GOVERNMENTS FOR BASIC NEEDS

Abolishing property taxes does not impact all local governments equally.

- **Property Tax Inside Millage vs. Voted Levies:** Inside millage provides a foundational operating revenue source for local governments. Voted millage consists of democratically voted levies for a broad array of purposes, including public education, human services and permanent improvements. Both would become unconstitutional, removing both the baseline floor (e.g. revenues from inside millage) and the community-approved ceiling of local funding (revenues from voted levies exceeding constitutional minimum amounts).

- **Additional Legal Authority for Raising Local Government Revenue Varies:**

  - **Counties:** have some degree of elasticity with the authority to implement sales taxes, but would lose county auditor settlement fees.

  - **Municipalities and School Districts:** possess the statutory authority to levy varying types of income taxes, providing some degree of elasticity.

  - **Townships:** are generally not authorized by state law to levy income taxes and/or sales taxes, but may receive income tax revenue in the economic development context.