

education on or before December 1st of each year, as directed by Section 7595-1i, General Code, funds for the use of such county board of education in the payment of salaries and contingent expenses for the ensuing year should be apportioned by the Director of Education among the several districts of each county school district on the basis of pupils in average daily attendance, and the amount so apportioned to each school district should be deducted by the Director of Education from the shares of the local districts in the state public school fund thereafter distributed during the year in pursuance of Section 7595-1, General Code.

3. Funds necessary for the use of a county board of education as determined from its budget submitted to the Director of Education the total amounts of which have been deducted proportionately from the amounts distributable from the state public school fund to the several districts in the county school district should be remitted by the Auditor of State, after certification to him by the Director of Education, by warrant drawn on the Treasurer of State to such county board of education and should be deposited by said county board of education in the treasury of the county to the credit of a separate fund known as the county board of education fund, and expended therefrom by warrants through the county auditor in pursuance of vouchers signed by the president of the county board of education.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5296.

APPROVAL—PETITION CONTAINING A PROPOSED CONSTITUTIONAL AMENDMENT AND A SUMMARY OF THE SAME.

COLUMBUS, OHIO, March 25, 1936.

MR. CHARLES H. HUBBELL, *10401 Almira Avenue, Cleveland, Ohio.*

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state containing a proposed constitutional amendment and a summary of the same under the provisions of Section 4785-175, General Code. It is proposed to amend the Constitution by the adoption of seventeen new sections, 9a to 9q, both inclusive, of Article XV, which sections shall read as follows:

“Article XV, Section 9a

It shall be lawful to sell or to offer for sale intoxicating liquor, or to keep, maintain or operate a hotel, inn, tavern, house,

room or place where intoxicating liquor is sold or offered for sale; provided that, within the preceding fifteen months, the judge of the probate court, in his sole and absolute discretion, shall have granted a license therefor, and provided such license shall not have expired or been revoked or cancelled.

Article XV, Section 9b

It shall be unlawful to sell or to offer for sale any intoxicating liquor, or to keep, maintain or operate any hotel, inn, tavern, house, room or place where any intoxicating liquor is sold or offered for sale, unless within the preceding fifteen months, the judge of the probate court, in his sole and absolute discretion, shall have granted a license therefor, and unless such license shall be unexpired, unrevoked and uncancelled; excepting that no license shall be required by the seller for the sale of intoxicating liquor at wholesale to any buyer to whom a license shall have been granted or transferred, provided the license of said buyer shall not have expired or been revoked or cancelled.

Article XV, Section 9c

Excepting as hereinafter in this article provided, no license shall be granted or transferred to any person other than a citizen of the United States of temperate habits and good moral character.

Article XV, Section 9d

No license shall be granted or transferred to any person who holds any public office, and any license shall immediately become void and be revoked and cancelled if the person to whom it shall have been granted or transferred shall become a candidate for any public office either at a general, municipal, special or primary election.

Article XV, Section 9e

No license shall be granted or transferred to any person who has previously been convicted of any felony, and any license shall immediately become void and be revoked and cancelled if the person to whom it shall have been granted or transferred shall be convicted of any felony.

Article XV, Section 9f

The judge of the probate court, in his sole and absolute discretion, may, at any time, declare, as to all or any part of the county in which he has jurisdiction, such restrictions, in the way of local option or otherwise, as he may see fit, or, in addition to

the restrictions set forth in this article, impose on any one or more licensees, as a condition precedent to the receiving or retaining of a license, such further restrictions as he may see fit. The judge of the probate court, in his sole and absolute discretion, may, at any time, revoke or cancel any license.

Article XV, Section 9g

A license may be granted or transferred to, and retained by, any corporation or partnership, provided none of the directors or officers of the corporation or none of the partners in the partnership shall be or become personally ineligible for a license, but not otherwise.

Article XV, Section 9h

With the approval of the judge of the probate court, the license of any deceased licensee may be assigned or transferred to his executor or administrator, who may thereafter exercise all the rights and privileges of the deceased licensee. With the approval of the judge of the probate court, the license of any other licensee may be assigned or transferred, and the assignee or transferee may thereafter exercise all the rights and privileges of the assignor or the transferer. The rights and privileges of such executors, administrators, assignees and transferees shall terminate upon the expiration of the license granted to the original licensee, and such executors, administrators, assignees and transferees shall always be subject to the same conditions, restrictions and regulations as original licensees, or to such other conditions, restrictions and regulations as may be imposed upon them or upon any of them by the judge of the probate court.

Article XV, Section 9i

No license shall be granted for more than twelve months from a date fixed by rule or standing order of the probate court. The judge of the probate court shall fix by rule or standing order a time at which a hearing shall be held on applications for licenses. At the time fixed for said hearing all persons making applications for licenses and all persons objecting thereto may be heard in person or by petition, remonstrance or counsel.

Article XV, Section 9j

No license shall be granted to any corporation, partnership or other person, unless, at least sixty days before the time fixed for said hearing, it or he shall file in the probate court its or his application therefor and shall pay to the clerk of said court

such amount of money as may be required to cover the costs and expenses in connection with said hearing; excepting that a license may be granted to the executor or administrator of a deceased applicant.

Article XV, Section 9k

The clerk of the probate court shall, at the expense of the applicants, cause to be published three times in each of two newspapers in the county a list containing the names of all applicants for licenses and the places for which applications have been made. In the case of corporations or partnerships such list shall set forth the names of all directors and officers and of all partners, respectively. The first such publication in each newspaper shall be not less than fifteen days or more than thirty days before the date fixed for said hearing. During the period of six months next after the date upon which this section becomes effective, the judge of the probate court may waive any or all of the provisions as to time set forth in Section 9i, Section 9j or Section 9k of this article.

Article XV, Section 9l

Upon the granting of any license, the licensee shall pay to the county treasurer a license fee in such amount as shall be fixed in each particular case by the judge of the probate court, which amount shall be not less than five hundred dollars and not more than two thousand dollars per year in any case. The judge of the probate court, in his sole and absolute discretion, may, within the aforementioned limitations, fix license fees of varying amounts for different licensees or for different locations.

Article XV, Section 9m

The jurisdiction of the judge of the probate court in each county in the state shall be confined to the county for which he is elected or appointed, excepting that no license for any place shall be granted or transferred without the concurrence and approval of the judge of the probate court of each county, any part of the area of which is within one mile of said place. No judge of any probate court shall, under any circumstances, be required to assign any reason or cause for any official act of commission or omission under the authority of this article, and the jurisdiction of the judge of the probate court shall be exclusive and final and not subject to appeal or review. In the event that, at any time, there shall be two or more judges of the

probate court in any county, the governor shall, from time to time, designate one of such judges to have exclusive jurisdiction under the provisions of this article.

Article XV, Section 9n

The general assembly or the people shall have the power to pass or adopt laws prohibiting the manufacture, production, transportation, possession, sale, barter, purchase, consumption or use of intoxicating liquor for beverage purposes; but all such laws passed by the general assembly shall be referred to the electors of the state for their approval or rejection, and none of the provisions of any such law passed by the general assembly shall become operative unless and until approved by a majority of the electors voting thereon.

Article XV, Section 9o

No law shall be adopted, passed or enforced whereby any license fee, other than as set forth in this constitution, shall be imposed upon the sale of intoxicating liquor. No law shall be adopted, passed or enforced whereby any public officer, other than the judge of the probate court, shall have any power to grant licenses or permits for the sale of intoxicating liquor or to regulate the sale of intoxicating liquor; excepting that nothing contained in this article shall be construed to limit or restrict the usual and customary powers and duties of the police officers of this state or any political subdivision thereof.

Article XV, Section 9p

The term 'intoxicating liquor' shall be construed to include alcohol, brandy, whisky, rum, gin, beer, ale, porter, wine and any spirituous, vinous, malt, distilled, brewed or fermented liquor, liquid or compound, by whatever name called, containing one-half of one per cent or more of alcohol by volume.

Article XV, Section 9q

The general assembly shall pass laws providing penalties for the violation of any of the provisions of this article, and laws may be adopted or passed to facilitate the operation of the provisions of this article. No law shall be adopted or passed, however, which in any way hampers, impairs, limits or restricts any of the provisions of this article."

The summary of this amendment reads as follows:

“(a) The proposed amendment to the constitution provides that it shall be lawful to sell or to offer for sale intoxicating liquor, or to keep, maintain or operate a hotel, inn, tavern, house, room or place where intoxicating liquor is sold or offered for sale, provided the judge of the probate court shall have granted a license therefor.

(b) Further the proposed amendment provides that it shall be unlawful to sell or offer for sale any intoxicating liquor, or to keep, maintain or operate any hotel, inn, tavern, house, room or place where any intoxicating liquor is sold or offered for sale, unless the judge of the probate court shall have granted a license therefor, excepting that no license shall be required by the seller for the wholesaling of intoxicating liquor to any buyer to whom a license shall have been granted or transferred.

(c, d and e) Further the proposed amendment provides that no license shall be granted to certain classes of persons.

(f) Further the proposed amendment provides that the judge of the probate court may declare, as to all or any part of the county in which he has jurisdiction, such restrictions, in the way of local option or otherwise, as he may see fit, or, in addition to the restrictions set forth in the proposed amendment, impose on any one or more licensees such further restrictions as he may see fit, and revoke or cancel any license.

(g) Further the proposed amendment provides that licenses may be granted or transferred to corporations or partnerships under certain conditions.

(h) Further the proposed amendment provides that licenses may be assigned or transferred under certain conditions.

(i, j and k) Further the proposed amendment provides that no license shall be granted for more than twelve months; and provides for the requirements and procedure for the granting of licenses, including the advance publication of applicants' names and the places for license.

(l) Further the proposed amendment provides for the payment of license fees of amounts to be fixed in each particular case by the judge of the probate court, but not less than five hundred dollars nor more than two thousand dollars per year in any case.

(m) Further the proposed amendment defines the jurisdiction of the judge of the probate court in each county; provides that no judge of any probate court shall be required to assign any reason or cause for any official act; and provides that the juris-

diction of the judge of the probate court shall be exclusive and final and not subject to appeal or review.

(n) Further the proposed amendment authorizes the general assembly or the people to pass or adopt laws prohibiting the manufacture, production, transportation, possession, sale, barter, purchase, consumption or use of intoxicating liquor for beverage purposes, with the requirement that all such laws passed by the general assembly shall, before becoming operative, be referred to the people for approval or rejection.

(o) Further the proposed amendment provides that no law shall be adopted, passed or enforced whereby any license fee, other than as set forth in the proposed amendment, shall be imposed upon the sale of intoxicating liquor, or whereby any public officer, other than the judge of the probate court, shall have any power to grant licenses or permits for the sale of intoxicating liquor, or to regulate the sale of intoxicating liquor, excepting that nothing contained in the proposed amendment shall limit or restrict the usual and customary powers and duties of police officers.

(p) Further the proposed amendment defines the term 'intoxicating liquor.'

(q) And further the proposed amendment provides that the general assembly shall pass laws providing penalties for violation of any of the provisions of the proposed amendment; provides that laws may be adopted or passed to facilitate the operation of the provisions of the proposed amendment; and provides that no law shall be adopted or passed which in any way hampers, impairs, limits or restricts any of the provisions of the proposed amendment."

I am of the opinion that the foregoing is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law the following certification:

"Pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the foregoing summary is a fair and truthful statement of the proposed amendment to the Constitution of Ohio by the addition to Article XV of Sections 9a to 9q, both inclusive.

Respectfully,

JOHN W. BRICKER,
Attorney General."