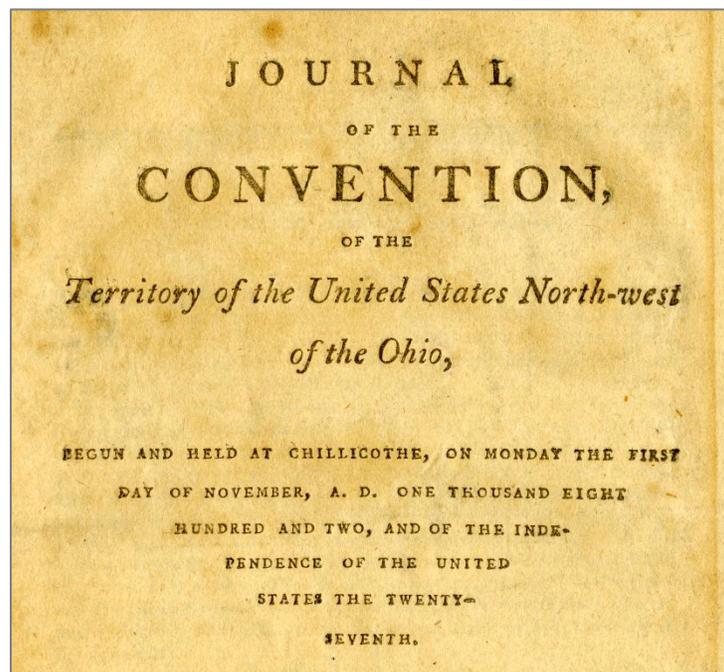




# OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

## FINAL REPORT PART 1: Commission Proceedings



Issued July 1, 2017

Cover photo shows the top of the title page of the journal from the 1802 Constitutional Convention.  
Courtesy of the Ohio History Connection (AL06905).

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*Report of the Legislative Branch and Executive Branch Committee*

## Letter from the Co-Chairs



### OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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June 30, 2017

TO: The General Assembly of the State of Ohio

On behalf of the members of the Ohio Constitutional Modernization Commission, we present to you this Final Report, in two parts, summarizing and documenting the work of the Commission's six subject matter committees, and providing the final work product of both the committees and the Commission.

The Commission's 20 public members, chosen from over 250 applicants, represented some of the most accomplished and talented of Ohio's citizens. They also demonstrated the highest ideals of dedication, diligence, and integrity as they donated a significant portion of their time each month to reviewing and recommending ideas that, if adopted, would serve to prepare Ohio's historic and comprehensive foundational document for the demands of the 21<sup>st</sup> century.

The Commission also benefited greatly from the contributions of its 12 legislative members who faithfully participated in the work of the Commission and contributed their legislative experience and political acumen to the process.

This Final Report contains all of the recommendations that were adopted by the Commission, as well as some recommendations issued by the committees but that, for various reasons, were not approved by the full Commission. Additional reports for each committee also describe proposals that were considered extensively by the committees but did not culminate in a recommendation to the Commission. Included with each recommendation is the history of the constitutional provisions, descriptions of relevant case law, outlines of presentations that informed the committees, and detailed summaries of committee discussion. This background is provided to assist the General Assembly in understanding the meaning of the constitutional provisions, and the rationale behind the Commission's recommendations.

Many others also contributed to this project. Over the years, the Commission heard from legal scholars and practitioners, educators, trade associations, public interest groups, representatives of state and local government agencies, and many others, all of whom provided insight and guidance as the committees delved into the various topics under review. The Commission is ever grateful for the participation of these individuals.

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The Commission was assisted by an able staff, including Executive Director Steven C. Hollon; Counsel and, later, Interim Executive Director and Counsel Shari L. O'Neill; Communications Director Shaunte S. Russell; and Administrative Assistant Jennie Long.

The Commission also relied on the advice and research support of Steven H. Steinglass, professor and dean emeritus of the Cleveland-Marshall College of Law, who served both as an early consultant as the Commission was organized and, later, as its senior policy advisor.

Student interns provided invaluable assistance with the Commission's research needs. Each semester the Commission hosted students from the Ohio State University Moritz College of Law, Ohio Northern University Pettit College of Law, or the Kent State University Columbus Program in Intergovernmental Issues.

The phrase "we stand on the shoulders of giants" is certainly true in relation to the benefit bestowed on this Commission by the significant, comprehensive work of the Ohio Constitutional Revision Commission in the 1970s. The documentation of the 1970s Commission's work was an unfailing resource, often lighting the path as this Commission found its way through some challenging topics. It is hoped that the work of the Constitutional Modernization Commission may be preserved for a future commission or convention to consider when the Ohio Constitution again comes under review. Of the 1970s Commission's effort, Chair Richard H. Carter wrote in 1977:

All members of the Commission, past and present, should be recognized for their dedication toward achieving its goals in a constructive, cooperative, and non-partisan spirit. This entire effort has been an outstanding example of how citizen involvement can make the democratic process truly meaningful and effective.

Those words are as true of the Modernization Commission as they were of the Revision Commission. In a world increasingly defined by partisanship and rancor, the need for civil discourse has never been greater. The Ohio Constitutional Modernization Commission, conceived with a goal of fostering bipartisan cooperation and open dialog, aspired to help the state constitution provide the foundational support for a better government and, by extension, a better society. Its members came together, in good faith and with sincere dedication, to leave a legacy and light a path for future Ohioans. As a result of the efforts of all of those who participated in this endeavor, we are now able to present this Final Report.

Respectfully submitted,

  
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Senator Charleta B. Favares, Co-chair

  
\_\_\_\_\_  
Representative Jonathan Dever, Co-chair

## **I. Introduction**

This Final Report (“Report”) of the Ohio Constitutional Modernization Commission (“Commission”) is issued pursuant to the conclusion of the Commission. It is issued in two parts. Part 1 contains a summary of the Commission’s organization and outputs, including topics discussed and recommendations made to the General Assembly. Previously, three biennial reports on the work of the Commission were issued in December 2012, December 2014, and December 2016. Part 2 contains the full recommendations, with accompanying reports, issued by the Commission

The Commission was established in 2011 by enactment of Am. House Bill 188 by the 129th Ohio General Assembly. The Commission was charged with:

- Studying the Ohio Constitution;
- Promoting an exchange of experiences and suggestions respecting desired changes in the constitution;
- Considering the problems pertaining to the amendment of the constitution;
- Making recommendations from time to time to the General Assembly for the amendment of the constitution.

The Commission used six subject matter committees for the purpose of reviewing constitutional provisions: Education, Public Institutions, and Local Government Committee; Finance, Taxation, and Economic Development Committee; Judicial Branch and Administration of Justice Committee; Bill of Rights and Voting Committee; Constitutional Revision and Updating Committee; and Legislative Branch and Executive Branch Committee. There is a separate report for each committee providing a summary of its work and recommendations to the Commission.

The Commission also had three standing committees for the purpose of managing Commission operations: Organization and Administration Committee; Coordinating Committee; and Public Information and Liaisons with Public Offices Committee. With the exception of the Coordinating Committee, the standing committees conducted work pertaining only to the operation of the Commission and have not produced a final report. The Coordinating Committee has a final report providing a summary of the work pertaining to its one constitutional recommendation.

Originally, the Commission was set to expire on July 1, 2021. Under Amended Substitute House Bill 64 (131st GA), the expiration date was changed to January 1, 2018. In June 2017, House Bill 49 (132nd GA) changed the expiration date to July 1, 2017. The statutory language governing the Commission is available in Appendix 1.

## II. Membership of the Commission

State law provided for 32 members of the Commission. Twelve members of the Commission were appointed from the General Assembly, with three members appointed by the president of the Senate, three members appointed by the minority leader of the Senate, three members appointed by the speaker of the House of Representatives, and three members appointed by the minority leader of the House of Representatives.

In addition, at the beginning of each even numbered year, the twelve members elected a co-chair from each house of the General Assembly, and appointed 20 members who were not members of the General Assembly. In total, 49 individuals served as members of the Commission from 2011-2017. A complete list of Commission members along with biographical information may be found in Appendix 3.

### The Ohio Constitutional Modernization Commission (June 8, 2017)



Pictured above (left to right):

Front row: Jo Ann Davidson, Steven H. Steinglass (Sr. Policy Advisor), Rep. Jonathan Dever (Co-Chair), Sen. Charleta Tavares (Co-Chair), Charles F. Kurfess, Kathleen M. Trafford, Shari L. O'Neill (Exec. Director).

Second row: Edward L. Gilbert, Roger L. Beckett, Herb Asher, Karla L. Bell, Mark Wagoner, Justice Patrick F. Fischer, Pierrette Talley, Rep. Glenn Holmes, Janet Gilligan Abaray.

Back row: Jeff Jacobson, Rep. Robert R. Cupp, Rep. Kathleen Clyde, Richard B. Sapphire, Sen. Michael Skindell, Sen. Vernon Sykes, Frederick E. Mills, Douglas R. Cole, Bob Taft, Sen. Bob Peterson, Sen. Bill Coley, Dennis P. Mulvihill.

Not pictured: Paula Brooks, Rep. Hearcel F. Craig, Sen. Kris Jordan, Rep. Robert McColley.

### III. Staff of the Commission

In 2014, the Commission hired dedicated staff to manage the work of the Commission. The permanent staff of the Commission comprised Steven C. Hollon, its first Executive Director, Shari L. O’Neill, Counsel to the Commission and later the Interim Executive Director, Communications Director Shaunte S. Russell, and Administrative Assistant Jennie Long. The Commission also formally contracted Steven H. Steinglass, dean emeritus and professor emeritus at the Cleveland-Marshall College of Law, to serve as the Senior Policy Advisor to the Commission.

The Commission also received periodic or temporary assistance from a variety of individuals. In particular, the Commission greatly benefited from the assistance of these caucus staff members:

- Sarah A. Cherry, Legal Counsel, House Minority Caucus
- Lizz Lewis, Majority Policy Advisor, Office of Speaker William G. Batchelder
- Pavan V. Parikh, Chief Legal Counsel, Senate Minority Caucus
- Bethany E. Sanders, Deputy Legal Counsel & Policy Advisor, Senate Minority Caucus
- Frank Strigari, Legal Counsel, Senate Majority Caucus
- Sheila Willamowski, Deputy Legal Counsel, House Majority Caucus

In addition, the Commission was assisted by the following legislative aides during committee meetings:

Emily Barker	Maria Haberman	Jenna Saponaro
Jenna Beadle	Trint Hatt	Bevan Schneck
Joe Bizjak	Abe Jacob	Ali Simon
Antwan Booker	Timothy Johnson	Chris Smith
Rachael Carl	Andrew Krick	Justin Stanek
James Carmean	Madison Lisotto	Brandi Wielgopolski
Lauren DeCamp	Stephanie Megas	
Nick Derksen	Brianna Miller	

The Commission benefited from legal research by the following interns from the Ohio State University Moritz College of Law, including those from the Legislation Clinic:

Nicholas Adair	Christopher Gawronski	Elizabeth Erin Oehler
Hailey Akah	Joyce Gray	Stacia Rapp
Bryan Becker	Dare Heisterman	Cody Weisbrodt
Alex Benson	Sara Paz Leigh	
Morgan Cheek	Lee R. Matheson	

The Commission also benefited from legal research by students Michael Hamper from the Ohio Northern University Pettit College of Law Clinical Externship Program and Andrew Weaver through Kent State University’s Columbus Program for Intergovernmental Issues.

## IV. Summary of Recommendations and Other Actions

In total, the Commission made twenty-eight recommendations to the General Assembly regarding provisions of the Ohio Constitution. Table 1 summarizes the recommendations including when the recommendations were made and the vote by which they were adopted.

Under Rule 10.3 of the Rules of Procedure and Conduct, a Commission recommendation to retain an existing section of the Ohio Constitution, without change, required the affirmative vote of seventeen Commission members. A Commission recommendation to revise an existing section or adopt a new section required the affirmative vote of twenty-two Commission members. The complete Rules of Procedure and Conduct is provided in Appendix 2.

These recommendations were presented in twenty-five separate reports and one addendum containing the background and discussion regarding the affected constitutional provisions. The complete reports for the recommendations are available in Part 2 of this Final Report.

A few topics were the subject of recommendations by committees, but the recommendations were not endorsed by the Commission. Table 2 summarizes these committee-only recommendations and any action taken by the Commission. Information about each of these topics may be found in the final report of the appropriate committee.

During the course of the Commission's work, the General Assembly introduced several measures based on topics discussed by the Commission. Table 3 summarizes the measures introduced in the General Assembly that either responded to or anticipated recommendations of the Commission.

In the tables, committees are indicated with their initials as shown in the following list.

### Committee Name Abbreviations

BRV	Bill of Rights and Voting Committee
CC	Coordinating Committee
CRU	Constitutional Revision and Updating Committee
EPILG	Education, Public Institutions, and Local Government Committee
FTED	Finance, Taxation, and Economic Development Committee
JBAJ	Judicial Branch and Administration of Justice Committee
LEB	Legislative Branch and Executive Branch Committee

Table 1: Summary of Commission Recommendations

Constitutional provision	Topic	Committee	Recommendation	Committee approval	Commission adoption	Vote
Art. I, § 2	Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges	BRV	Retain	Feb. 12, 2015	June 11, 2015	22-0
Art. I, § 3	Right to Assemble	BRV	Retain	Feb. 12, 2015	June 11, 2015	22-0
Art. I, § 4	Bearing Arms, Standing Armies, and Military Power	BRV	Retain	Feb. 12, 2015	June 11, 2015	22-0
Art. I, § 8	Writ of Habeas Corpus	JBAJ	Retain	Mar. 9, 2017	Apr. 13, 2017	25-0
Art. I, § 13	Quartering Troops	BRV	Retain	June 11, 2015	Oct. 8, 2015	23-0
Art. I, § 17	No Hereditary Privileges	BRV	Retain	June 11, 2015	Oct. 8, 2015	23-0
Art. I, § 20	Powers Reserved to the People	BRV	Retain	Nov. 12, 2015	Jan. 14, 2016	22-0
Art. II, §§ 3, 4, 5, 11	Member Qualifications and Vacancies in the General Assembly	LEB	Retain	Dec. 15, 2016	Apr. 13, 2017	25-0
Art. II, §§ 6–9, 13, 14	Conducting Business of the General Assembly	LEB	Retain	Dec. 15, 2016	Apr. 13, 2017	25-0
Art. II, §§ 10, 12	Rights and Privileges of Members of the General Assembly	LEB	Retain	Mar. 9, 2017	Apr. 13, 2017	25-0
Art. IV, § 19	Courts of Conciliation	JBAJ	<b>Repeal</b>	Jan. 15, 2015	Apr. 9, 2015	23-1
Art. IV, § 22	Supreme Court Commission	JBAJ	<b>Repeal</b>	Jan. 15, 2015	Apr. 9, 2015	24-0
Art. V, § 2	Election by Ballot	BRV	Retain	May 11, 2017	May 11, 2017	21-0-1
Art. V, § 2a	Names of Candidates on Ballot	BRV	Retain	Mar. 9, 2017	Apr. 13, 2017	25-0
Art. V, § 4	Exclusion from Franchise for Felony Conviction	BRV	Retain	Nov. 12, 2015	Jan. 14, 2016	20-2

Art. VI, § 1	Funds for Religious and Educational Purposes	EPILG	Retain	Oct. 8, 2015	Dec. 10, 2015	23-0
Art. VI, § 2	School Funds	EPILG	Retain	Oct. 8, 2015	Dec. 10, 2015	22-1
Art. VI, § 5	Loans for Higher Education	EPILG	Retain	Nov. 10, 2016	Mar. 9, 2017	21-0-1
Art. VI, § 6	Tuition Credits Program	EPILG	Retain	Nov. 10, 2016	Mar. 9, 2017	21-0-1
Art. VII, § 1	Support for Persons with Certain Disabilities	EPILG	<b>Revise</b>	May 11, 2017	June 8, 2017	24-0
Art. VII, §§ 2, 3	Directors of Public Institutions	EPILG	<b>Repeal</b>	May 11, 2017	June 8, 2017	23-0
Art. VIII, §§ 1, 2	State Debt	FTED	Retain	May 12, 2016	Sept. 8, 2016	25-0
Art. VIII, § 3	State Debt	FTED	<b>Revise</b>	May 12, 2016	Sept. 8, 2016	25-0
Art. VIII, §§ 2b–2h, 2j, 2k	Authorization of Debt Obligations	FTED	<b>Repeal</b>	Apr. 14, 2016	Sept. 8, 2016	26-0
Art. VIII, §§ 2l–2s	Additional Authorization of Debt Obligations	FTED	Retain	Nov. 10, 2016	Mar. 9, 2017	21-0-1
Art. VIII, § 2t	General Obligation Bonds for Certain Facility Costs	FTED	<b>Adopt</b>	Apr. 14, 2016	Sept. 8, 2016	26-0
Art. VIII, §§ 7–11	The Sinking Fund and Sinking Fund Commission	FTED	<b>Repeal</b>	May 12, 2016	Sept. 8, 2016	26-0
Art. VIII, § 18	Protection for Certain Bond Holders	FTED	<b>Adopt</b>	Apr. 14, 2016	Sept. 8, 2016	26-0

Table 2: Committee Recommendations Not Adopted By Commission

Constitutional provision	Topic	Committee	Recommendation	Committee approval	Commission action	Vote
All	Gender Neutral Language	CC	<b>Revise</b>	May 11, 2017	No vote due to lack of quorum	None
Art. I, § 10	Grand Juries	JBAJ	<b>Revise</b>	May 11, 2017	Not considered	None
Art. II, §§ 1–1i, 15, 17	Initiative and Referendum	CRU	<b>Revise</b>	May 11, 2017	Tabled June 8, 2017	20-1
Art. II, § 2	State Legislator Term Limits	LEB	<b>Revise</b>	Apr. 9, 2015	Not considered	None
Art. V, § 6	Mental Capacity to Vote	BRV	<b>Revise</b>	Mar. 11, 2016	Not adopted May 12, 2016	18-8 (22 votes required)

Table 3: General Assembly (“GA”) Actions in Response to Commission Work

Constitutional provision	Topic	Commission Action	GA Measure	Last Action	Result
Art. II, § 1e	Prohibit monopolies in constitution	CRU Discussion	HJR 4 131st GA	Adopted June 30, 2015	Approved by voters Nov. 3, 2015; effective Nov. 3, 2015
Art. IV, § 19	Courts of Conciliation	Recommended repealing	HJR 12 131st GA	Referred to committee	Not adopted by GA
Art. IV, § 22	Supreme Court Commission	Recommended repealing	HJR 12 131st GA	Referred to committee	Not adopted by GA
Art. VIII, §§ 2b–2h, 2j, 2k	Authorization of Debt Obligations	Recommended repealing	HJR 13 131st GA	Referred to committee	Not adopted by GA
Art. VIII, § 2t (new)	General Obligation Bonds for Certain Facility Costs	Recommended adopting	HJR 13 131st GA	Referred to committee	Not adopted by GA
Art. VIII, § 18 (new)	Protection for Certain Bond Holders	Recommended adopting	HJR 13 131st GA	Referred to committee	Not adopted by GA
Art. XI	State legislative redistricting	LEB Discussion	HJR 12 130th GA	Adopted Dec. 17, 2014	Approved by voters Nov. 3, 2015; effective Jan. 1, 2021
New	Congressional redistricting	LEB Discussion	HJR 2 131st GA	Referred to committee	Not adopted by GA

## **V. Summary Proceedings of the Full Commission**

NOTE: The full record of Commission minutes is presented in Appendix 4.

The Commission first convened on December 28, 2011 and was called to order by House Speaker William Batchelder. The Commission originally consisted of the following legislative members: Speaker Batchelder, Rep. Kathleen Clyde, Rep. Matt Huffman, Rep. Dennis Murray, Rep. Lynn Slaby, Rep. Vernon Sykes, Sen. Shannon Jones, Sen. Eric Kearney, Sen. Larry Obhof, Sen. Charleta Tavares, Sen. Michael Skindell, and Sen. Mark Wagoner. The members selected Speaker Batchelder and Rep. Sykes as co-chairs and adopted Robert's Rules of Order as the interim rules of the Commission.

At the first meeting, Speaker Batchelder provided background on the Commission, noting that under Art. XVI, §3, the Ohio Constitution provides that the question of whether to hold a constitutional convention must be put to the voters every 20 years. He noted that the work of the present Commission would provide the groundwork for and supplement the work of a Constitutional Convention should the voters approve one, but in the absence of a convention it would still provide a forum within which to examine Ohio's Constitution.

On March 22, 2012, Commission members attended a half-day Constitutional Modernization Colloquium that was open to the public. The event, held at the Riffe Center for Government and the Arts in Columbus, was organized by a planning committee through the Ohio State University Moritz College of Law. Nancy Rogers, former Dean of the Ohio State University Moritz College of Law, coordinated the event planning with the Commission. The colloquium covered several topics, including past experience with constitutional commissions in Ohio and other states, the history and role of state constitutions, procedural options for the Commission, and ideas for updating the Ohio Constitution.

After establishing a procedure and timeline for identifying an additional 20 public members, on September 13, 2012 the Commission appointed the following as public members of the Commission out of a pool of over 250 applications:

Janet Gilligan Abaray, Herb Asher, Roger L. Beckett, Karla L. Bell, Paula Brooks, Douglas R. Cole, Jo Ann Davidson, Patrick F. Fischer, Judith L. French, Edward L. Gilbert, Charles F. Kurfess, Larry L. Macon, Frederick E. Mills, Dennis P. Mulvihill, Chad A. Readler, Joseph P. Rugola, Richard B. Sapphire, Robert A. Taft, Kathleen M. Trafford, and Richard S. Walinski.

Following the appointment of public members, the Commission spent 2013 organizing itself. The Commission discussed rules of procedure, committee structure, staffing, office space, public involvement, website, ethics issues, records access and retention, and location of meetings. In April 2013, the committee structure was finalized and members assigned to the various committees. Committee activity began in earnest in June 2013 with committees providing reports back to the Commission on topics of discussion and speakers who attended the meetings. The second half of 2013 was also spent identifying staff requirements, establishing job postings, and conducting a search for an executive director.

During the 2013-2014 biennium, the Commission heard presentations from Ohio Supreme Court Chief Justice Maureen O'Connor, Ohio Secretary of State John Husted, and Political Science Professor John Dinan of Wake Forest University's Department of Politics and International Affairs. Chief Justice O'Connor shared several proposals she made earlier in 2013, a number of which require a constitutional change in order to implement. Secretary Husted shared his thoughts on redistricting and reapportionment and urged the Commission to act quickly on this matter. Dr. Dinan discussed numerous topics, including the nature and role of state constitutions, the function of state constitutions as compared to the federal constitution, the historic debate over including policy amendments in state constitutions, issues other states are addressing as they amend and revise their constitutions, and the range of approaches of other states to such common issues such as the constitutional amendment/revision process, redistricting, the legislature, the judiciary, and rights-related provisions.

The Commission formally adopted Rules of Procedure and Conduct at its meeting on September 11, 2014. A primary feature of the rules was the requirement that recommendations for change be heard at least two times before being voted out of a committee, and at least two times before being adopted by the Commission. In addition, while a committee could issue any report and recommendation upon the affirmative vote of a simple majority of the committee, the Commission could only adopt a report and recommendation for change upon the affirmative vote of at least 22 of its members, regardless of the existence of any vacancies on the Commission. The intent of this requirement was to ensure bipartisan support for any changes recommended by the Commission.

In 2015, the Commission slightly revised the procedure for committees to approve reports and recommendations. Specifically, in the instance where a report and recommendation is for no change to an existing constitutional provision, a committee could vote on whether to issue the report after only one reading. Also, where an additional reading might be necessary, the reading need not occur at the next consecutive meeting, but could take place at any subsequent meeting.

In February 2015, the Commission heard the first of two presentations on two reports and recommendations by the Judicial Branch and Administration of Justice Committee. The first report and recommendation addressed Article IV, Section 19, which allows the General Assembly to establish "courts of conciliation," an early dispute resolution method that, when adopted as a result of the 1851 Constitutional Convention, was intended to supplement the court system. Acknowledging Article IV, Section 19 has never been used, the Commission voted to adopt the report recommending its repeal as obsolete.

Article IV, Section 22, adopted in 1875, similarly involved a provision intended to address the Ohio Supreme Court's burgeoning docket by creating a commission appointed by the governor to decide cases. Although used several times in the 1800s, the provision has not been used since, and its obsolescence provided the basis for the Commission's decision to adopt a second report and recommendation by the Judicial Branch and Administration of Justice Committee recommending its repeal.

The Commission heard a second presentation of these reports and recommendations at its April 2016 meeting, passing a motion to adopt both.

In April 2015, the Commission heard a first presentation of reports and recommendations for no change to three sections of Article I, the Bill of Rights: Section 2, relating to the right to alter, reform, or abolish government, and repeal special privileges; Section 3, involving the right to assemble; and Section 4, providing a right to bear arms, and governing standing armies and military power. All three reports and recommendations were subject to a second presentation, and a vote adopting them in June 2015.

In September 2015, the Commission heard presentations of reports and recommendations for no change to two additional Bill of Rights provisions. Article I, Section 13, prohibiting the quartering of troops, and Article I, Section 17, prohibiting the granting of hereditary privileges, were subject to a second presentation, and adopted by the Commission in October 2015.

November 2015 provided the first opportunity for the Commission to consider two reports and recommendations by the Education, Public Institutions, and Local Government Committee relating to Ohio's education system. After a second reading in December 2015, the Commission voted to adopt a report and recommendation for no change to Article VI, Section 1, which governs the sale or other disposition of lands earmarked for educational use. The Commission also adopted a report and recommendation for no change to Article VI, Section 2, providing for a "thorough and efficient system of common schools throughout the state."

Several topics discussed by the various committees were subject to additional consideration by the full Commission. One of these topics, originally discussed in the Legislative Branch and Executive Branch Committee, was what, if any, role the Commission should play with regard to ballot issues embracing topics that had been the subject of Commission review. Commission members expressed that, even where a ballot issue directly derives from a recommendation of the Commission, it could be problematic for the Commission to take an official position or to recommend how individuals should vote, as this might exceed the statutory charge of the Commission.

The Commission also discussed the topic of the use of the initiative and referendum process to create a monopoly or cartel in favor of persons or groups seeking an economic advantage. The problems suggested by this use of the constitution had been discussed by the Constitutional Revision and Updating Committee in several meetings. Ultimately, House Joint Resolution 4, passed by the 131st General Assembly and placed on the November 2015 ballot as "Issue 2," asked voters to approve an amendment that would prohibit the use of the constitution to create a monopoly. Although some members expressed the view that it was unnecessary or unwise to limit the initiative and referendum process, others commented that the protection provided in the proposed amendment was necessary in order to prevent special interests from gaining an advantage through the use of the state's foundational document.

In December 2015, the Commission had a first reading of two reports and recommendations by the Bill of Rights and Voting Committee. Article I, Section 20, declaring that powers not designated by the constitution are preserved for the people, was recommended to be retained. The committee also recommended the retention of Article V, Section 4, which allows the General Assembly to prohibit voting by persons convicted of a felony.

In January 2016, the Commission unanimously voted to adopt the recommendation to retain Article I, Section 20. However, at that same meeting, the report and recommendation for Article V, Section 4 was subject to debate. Commission members were divided on whether to adopt the committee's

recommendation. Some members emphasized that the provision does not preclude post-incarceration voting by persons convicted of a crime, and so should be retained. Other members, however, expressed concern that voting for released felons derives from statute, and may not always be protected unless it is expressly enshrined in the constitution. Upon a roll call vote, the motion to adopt the report and recommendation to retain the current provision passed by a vote of 20 in favor, two opposed, with ten absent.

In April 2016, the Commission had a first presentation of a report and recommendation by the Bill of Rights and Voting Committee relating to Article V, Section 6 (Mental Capacity to Vote). The committee had recommended a change that would remove the reference to “idiots and insane persons” as being derogatory, while retaining the section’s prohibition on voting for persons who have been “determined under law to lack the mental capacity to vote.” The committee’s recommended change also was to add a reference to the “rights and privileges of an elector.” At the first presentation on this report and recommendation, as well as at the second presentation, which occurred at the Commission meeting in May 2016, some Commission members expressed strong objection to the constitution continuing to have a provision disenfranchising persons with diminished mental capacity, as well as concerns related to how the provision should reference the determination of incapacity and what, precisely, is meant by the phrase “rights and privileges of an elector.” Upon a roll call vote, the motion to adopt the report and recommendation to repeal Article V, Section 6, and replace it with the recommended language, failed to obtain the requisite 22 votes to pass. The final vote on the motion was 18 in favor, eight opposed, with six absent.

In June 2016, the Commission heard the first of two presentations on three reports and recommendations by the Finance, Taxation, and Economic Development Committee. The first report and recommendation, addressing Article VIII, Sections 1, 2, and 3, recommends that the sections remain intact with the exception of a reference to the sinking fund in Section 2. Sections 1 through 3 create the state’s basic structure for dealing with state debt, prescribing, among other things, a debt limit of \$750,000 that has been in place since its adoption as part of the 1851 constitution. The second report and recommendation recommends repeal of numerous sections of Article VIII related to general debt obligations on the grounds that those obligations have expired because the debt issuance authority is used up and the debt has been repaid. To address any debt outstanding after the repeal of Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, and 2k, the report and recommendation proposes the addition of Section 18 to allow repayment in that situation. The report and recommendation also recommends the adoption of a new Section 2t that would allow the lease appropriation debt described in Section 2i to be reissued as general obligation bonds. The third report and recommendation addresses Article VIII, Sections 7 through 11, which create a state “Sinking Fund,” as well as a “Sinking Fund Commission.” The report and recommendation recommends these sections for repeal because the state no longer utilizes a sinking fund, and the Sinking Fund Commission has not been active for many years. The Commission heard a second presentation of these three reports and recommendations at its September 2016 meeting, at which a motion to adopt the reports and recommendations passed unanimously.

In the fall of 2016, the Commission updated its rules and committee structure. First, it amended Rule 3.9 of the Rules of Procedure and Conduct, relating to the number of members constituting a quorum. The revision reduced to 17 from 21 the number of members required to be present in order to approve minutes and take other official action. The revision did not affect the number of affirmative votes required to make recommendations on constitutional provisions as set forth in Section 10, Rule 10.3. Second, the Commission reduced the number of standing committees and

reorganized them to better facilitate their functions. Specifically, the change combined the Public Education and Information Committee with the Liaisons with Public Offices Committee, renaming it the Public Information and Liaisons with Public Offices Committee. These changes affected Rules 5.4 and 5.5.

At the October 2016 meeting, the Commission discussed a proposal to enlist the assistance of the Legislative Service Commission in drafting joint resolutions that reflect the recommendations adopted by the Commission in 2015 with regard to the repeal of Article IV, Sections 19 and 22 (Courts of Conciliation and Supreme Court Commission); the recommendations adopted in 2016 addressing Article VIII, Sections 1, 2, 3, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, 7, 8, 9, 10, and 11 (State Debt, General Obligation Debt, and the Sinking Fund); and the related 2016 adoption of recommendations to create new Sections 2t and 18 in Article VIII. The Commission discussed that the goal of moving forward with drafting the joint resolutions would be to schedule their consideration in the General Assembly for possible referral on the 2017 fall ballot. On motion to pursue this course of action, the Commission voted unanimously to obtain draft language and to have the Commission co-chairs follow up with legislative leadership in order to bring the joint resolutions to the attention of the General Assembly.

In December 2016, the Commission heard first presentations of two reports and recommendations by the Education, Public Institutions, and Local Government Committee relating to Article VI, Sections 5 and 6. Dealing respectively with student loans for higher education and the creation of a tuition credits program, the reports recommended no change for the reason that, although the sections are not currently necessary, future changes in funding for higher education may return them to relevance.

The Commission also heard a first presentation of a report and recommendation by the Finance, Taxation, and Economic Development Committee for no change to Article VIII, Sections 2l through 2s, which authorize additional debt obligations to fund projects related to state infrastructure. As these sections relate to bonds that are outstanding, the committee recommended that they be retained in their current form.

The Commission meeting in February 2017 was the first meeting to be held after the departure of Steven C. Hollon, its executive director. At the meeting, Co-chair Tavares and others complimented Mr. Hollon on his service, noting the administrative and other improvements Mr. Hollon's leadership had brought to the process. Co-chair Tavares announced that Shari L. O'Neill, counsel to the Commission, additionally would serve as interim executive director due to Mr. Hollon's departure.

Education, Public Institutions, and Local Government Committee Chair Chad Readler announced his departure at the beginning of 2017, and Vice-chair Edward Gilbert took over the duties of the chair and was formally named to that position in May 2017.

In March and April 2017, the Commission heard presentations and unanimously voted to adopt the following reports and recommendations for no change:

- Article II, Sections 3, 4, 5, and 11 (Member Qualifications and Vacancies in the General Assembly)
- Article II, Sections 6, 7, 8, 9, 13, and 14 (Conducting Business of the General Assembly)
- Article II, Sections 10 and 12 (Rights and Privileges of Members of the General Assembly)

- Article V, Section 2a (Names on the Ballot)
- Article VI, Section 5 (Loans for Higher Education)
- Article VI, Section 6 (Tuition Credits Program)
- Article VIII, Sections 2l, 2m, 2n, 2o, 2p, 2q, 2r, 2s (Additional Authorization of Debt Obligations)
- Article I, Section 8 (Writ of Habeas Corpus)

In May, the Commission voted to adopt a report and recommendation for no change to Article V, Section 2 (Election by Ballot). The Commission also heard first presentations on recommendations for change to the following provisions:

- Article VII, Section 1 (Support for Persons with Certain Disabilities)
- Article VII, Sections 2 and 3 (Directors of Public Institutions)
- Article II, Sections 1 through 1i, 15 and 17 (Constitutional Initiative, Statutory Initiative, and the Referendum)
- Article I, Section 10 (The Grand Jury)

The Commission also heard a first presentation from Coordinating Committee Chair Kathleen Trafford regarding her committee's recommendation to remove gender-specific language from the constitution.

Also in May, the Commission began to look to steps needed to finalize its record, with staff preparing revised meeting minutes for 2013 through mid-2014 that were intended to standardize the format and make needed additions and corrections.

May 2017 saw the departure of two staff members, Administrative Assistant Jennie Long and Communications Director Shaunte Russell, who obtained other employment in anticipation of the sunset of the Commission. Commission members thanked Ms. Long for her work in setting up all the meetings, and Ms. Russell for her role in designing and maintaining the Commission's website.

In June 2017, the Commission recognized that developments in the biennial budget process may signal the end of the Commission's work at the end of the month. However, Co-chair Tavares emphasized that, at the time of the June 8 meeting, the Senate was still debating the biennial budget bill, and, as matters then stood, the Commission had until December 31 to conclude its business.

The Commission reviewed and unanimously voted to adopt reports and recommendations for a revision to Article VII, Section 1 (Support for Persons with Certain Disabilities), and for the repeal of Article VII, Sections 2 and 3 (Directors of Public Institutions).

The report and recommendation regarding Article VII, Section 1 recognized that the existing provision contains objectionable references to persons with disabilities, and the recommendation to change the language was the result of discussion and input from the disability community. The proposed new language maintained the state's obligation with regard to providing care but removed the offensive language and de-emphasized institutionalization as the sole method for providing assistance. The report and recommendation regarding Article VII, Sections 2 and 3 recommended repeal on the basis that those sections are obsolete and no longer are used to govern how the directors of state agencies and institutions are selected.

In addition to adopting these reports and recommendations, the Commission voted to recommend that the General Assembly accept an addendum to its previously adopted report and recommendation for the repeal of Article VIII, Sections 7 through 11, relating to the Sinking Fund and the Sinking Fund Commission. That report and recommendation had recommended the repeal of those sections on the basis that the state no longer uses a Sinking Fund to pay down its debt. However, as reported by the committee chair, the Finance, Taxation, and Economic Development Committee heard from state finance experts who indicated the debt reporting function assigned to the treasurer of state in Section 9 should be maintained in some manner, whether by constitutional authority or through statute. Thus, the committee recommended that an addendum be adopted that would urge the General Assembly to address the ongoing need for the treasurer to prepare an annual report documenting state debt. On unanimous voice vote, the addendum was accepted and will be forwarded to the General Assembly in connection with the Commission's previous recommendation regarding Article VIII, Sections 7 through 11.

The bulk of the June meeting addressed a report and recommendation from the Constitutional Revision and Updating Committee relating to Article II, Sections 1 through 1i, 15 and 17 (Constitutional Initiative, Statutory Initiative, and the Referendum). Presented to the Commission for the second time, the report and recommendation drew significant attention from the public, with several individuals and groups sending letters, providing written testimony, and appearing before the Commission to protest the committee's specific recommendations for change to the constitutional initiative, statutory initiative, and referendum processes in Article II. Primarily, opponents objected to the recommendation that constitutional initiative petitions be subject to a 55 percent ballot approval for passage, although the recommendation that initiative petitions only appear on the ballot in even-numbered years also was unpopular. Witnesses particularly noted an objection to having two different standards for passage, commenting that it is unfair for legislatively-proposed amendments to be able to pass with only a simple majority affirmative vote while, under the proposal, citizen initiatives would be subject to a supermajority requirement.

Commission members were divided in their support of the report and recommendation, on whether to hold a vote on the report and recommendation, on whether to seek its amendment, and on whether to refer the report and recommendation back to the committee. Although they recognized the significant effort of the committee in formulating the recommendation, a process that took over four years, Commission members expressed that they would like more time to consider the many aspects of the proposal, and to consider the views of the members of the public who opposed the suggested revisions. Some Commission members also recognized that the proposal could not be divided or amended in order to make it ripe for a vote because the subject sections had been so comprehensively re-worked, and because the many different components of the recommendation were the product of negotiation and compromise in the committee. Ultimately, the report and recommendation was subject to a successful motion to lay it on the table, and so no vote on whether to adopt it was taken.

Several other matters were raised at the June Commission meeting but were not subject to a vote. A recommendation for gender neutral language, issued by the Coordinating Committee, was not able to be brought to a vote because the Commission lost its quorum late in the meeting.

Similarly, members of the Bill of Rights and Voting Committee planned to ask the Commission for a recommendation that objectionable references to persons with mental incapacity contained in Article V, Section 6 be removed, a recommendation that had been part of a report and

recommendation that had, in 2016, failed to achieve the requisite support of 22 members of the Commission because of concerns regarding the provision's curtailment of voting rights. However, lacking a quorum, the Commission could not formally consider the proposal to recommend removing the objectionable language.

Finally, the report and recommendation of the Judicial Branch and Administration of Justice Committee relating to Article I, Section 10 (The Grand Jury), was removed from the agenda for lack of support. However, the committee chair was permitted the opportunity to discuss the recommendation and to outline concerns about the grand jury process that had prompted the committee's vote to recommend changes.

In light of the uncertain future of the Commission, in June 2017 Ms. O'Neill took the opportunity to thank the many experts and interested parties who had assisted the committees in reviewing the myriad topics assigned to them. She also expressed the Commission's appreciation of the many members of caucus staff and the legislative aides who assisted the Commission, particularly in the early years before staff was hired. Ms. O'Neill recognized the work of Steven H. Steinglass, senior policy advisor, whose many years of scholarly research were invaluable to the Commission's work. Ms. O'Neill finally recognized Peg Rosenfield, elections specialist with the League of Women Voters of Ohio, who was present in the audience for nearly all of the Commission and committee meetings, and also had attended meetings of the Ohio Constitutional Revision Commission in the 1970s.

# Appendix 1

## Ohio Constitutional Modernization Commission

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### Enabling Statute

## **OCMC Enabling Statute**

### **R.C. 103.61 Ohio constitutional modernization commission**

The members of the Ohio constitutional modernization commission shall meet for the purpose of:

- (A) Studying the Constitution of Ohio;
- (B) Promoting an exchange of experiences and suggestions respecting desired changes in the Constitution;
- (C) Considering the problems pertaining to the amendment of the Constitution;
- (D) Making recommendations from time to time to the general assembly for the amendment of the Constitution.

A commission recommendation is void unless it receives a two-thirds vote of the membership of the commission.

### **R.C. 103.62 Report to general assembly**

In the event of a call for a constitutional convention, the Ohio constitutional modernization commission shall report to the general assembly its recommendations with respect to the organization of a convention, and report to the convention its recommendations with respect to amendment of the Constitution.

### **R.C. 103.63 Establishment; members; compensation**

There is established an Ohio constitutional modernization commission consisting of thirty-two members. Twelve members shall be appointed from the general assembly as follows: three by the president of the senate, three by the minority leader of the senate, three by the speaker of the house of representatives, and three by the minority leader of the house of representatives. Not later than January 1, 2012, and every two years thereafter, the twelve general assembly members shall meet, organize, and elect two co-chairpersons, who shall be from different political parties. The members shall then, by majority vote, appoint twenty commission members, not from the general assembly. All appointments shall end on the first day of January of every even-numbered year, and the commission shall then be re-created in the manner provided above. Members may be reappointed. Vacancies on the commission shall be filled in the manner provided for original appointments.

The members of the commission shall serve without compensation, but each member shall be reimbursed for actual and necessary expenses incurred while engaging in the performance of the member's official duties. Membership on the commission does not constitute holding another public office. The joint legislative ethics committee is the appropriate ethics commission as described in division (F) of section 102.01 of the Revised Code for matters relating to the public members appointed to the Ohio constitutional modernization commission.

R.C. 103.64 Receipt of and disbursement of funds; annual report

The Ohio constitutional modernization commission may receive appropriations and grants, gifts, bequests, and devises and may expend any funds received in such a manner for the purpose of reimbursing members for actual and necessary expenses incurred while engaged in official duties, or for the purpose of meeting expenses incurred in any special research or study relating to the Constitution of Ohio. The commission shall file annually with the auditor of state, on or before the fifteenth day of March, a full report of all grants, gifts, bequests, and devises received during the preceding calendar year, stating the date when each was received and the purpose for which the funds received therefrom were expended.

#### **R.C. 103.65 Staff**

The Ohio constitutional modernization commission may employ professional, technical, and clerical employees as may be required successfully and efficiently to carry out the purposes of the commission. Funds for the compensation and reimbursement of employees shall be paid from the state treasury out of funds appropriated for the purpose. All disbursements of the commission shall be by voucher approved by one of the co-chairpersons of the commission.

#### **R.C. 103.66 Timing of reports**

The Ohio constitutional modernization commission shall make its first report to the general assembly not later than January 1, 2013. Thereafter, it shall report at least every two years until its work is completed.

#### **R.C. 103.67 Expiration of commission**

The Ohio constitutional modernization commission shall complete its work on or before July 1, 2021, and shall cease to exist at that time. The terms of all members shall expire July 1, 2021.

*Added by 129th General Assembly File No. 41, HB 188, § 1, eff. 10/17/2011.*

*Repealed by 131st General Assembly File No. TBD, HB 64, §125.12, eff. 1/1/2018.*

# **Appendix 2**

## **Ohio Constitutional Modernization Commission**

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### **Rules of Procedure and Conduct**

# **OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**



## **RULES OF PROCEDURE AND CONDUCT**

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## **Section 1 Purpose and Scope**

### **Rule 1.1      Creation of Commission**

The Ohio Constitutional Modernization Commission (“Commission”) is created by HB 188 of the 129<sup>th</sup> General Assembly and codified in Revised Code Sections 103.61 to 103.67, et seq.

### **Rule 1.2      Purpose of Commission**

Pursuant to Revised Code Section 103.61, the Commission shall meet for the purpose of:

- (A) Studying the Constitution of Ohio;
- (B) Promoting an exchange of experiences and suggestions respecting desired changes in the Constitution;
- (C) Considering the problems pertaining to the amendment of the Constitution;
- (D) Making recommendations from time to time to the General Assembly for the amendment of the Constitution.

### **Rule 1.3      Purpose of Rules**

These Rules of Procedure and Conduct (“Rules”) are adopted for the purpose of providing structure to the Commission that is not otherwise set forth in statute, a procedural framework for conducting its business, and guidance for the conduct of Commission members and staff while engaging in the activity their positions require, all in furtherance of the purpose of the Commission as set forth above.

**Section 2**  
**Commission Member Aspirations**

**Rule 2.1 Valuing Citizen Input**

Commission members shall value the input of all Ohio citizens and their thoughtful and meaningful suggestions for preserving or amending provisions of the Ohio Constitution.

**Rule 2.2 Open Mindedness**

Commission members shall keep an open mind regarding every proposal pending before the Commission until they have had a reasonable opportunity to review, study, and consider all relevant presentations and research regarding the proposal.

**Rule 2.3 Attentiveness; Consideration**

Commission members shall listen attentively and provide full consideration to the opinions and interests of all participants and presenters before the Commission and its committees.

**Rule 2.4 Independence**

Commission members shall speak only for themselves and not ascribe views or opinions to others when speaking outside Commission or committee meetings regarding proposals that are pending before or could come before the Commission or its committees for consideration.

### **Section 3 Commission Meetings**

#### **Rule 3.1 Meetings**

The Commission shall meet regularly, but not less than once every three months, on a date mutually agreed upon and specified by the Commission co-chairs, and at such other times as the co-chairs may jointly call.

#### **Rule 3.2 Location**

The Commission shall meet in Columbus at a location selected by the Commission co-chairs. The co-chairs may from time to time jointly designate a location outside Columbus to conduct a meeting of the Commission.

#### **Rule 3.3 Public Notice**

Notice of all meetings of the Commission shall be posted to the Commission's website prior to the occurrence of the meeting and at a time not later than required by R. C. 121.22, Ohio's Open Meetings Act.

#### **Rule 3.4 Public Session**

All meetings of the Commission shall be conducted in public session in accordance with R.C. 121.22, Ohio's Open Meetings Act.

#### **Rule 3.5 Agenda**

The Commission co-chairs shall set the agenda for all regular and special meetings of the Commission. The agenda for a Commission meeting shall be circulated to the members of the Commission not less than two business days prior to the date of the scheduled meeting.

#### **Rule 3.6 Co-Chairs Presiding**

The Commission co-chairs shall preside at all Commission meetings, maintain order, and, subject to appeal to the Commission, decide questions of order. If either co-chair anticipates missing a meeting of the Commission, that co-chair may select a member of the Commission as co-chair *pro tem* to serve at the meeting of the Commission in the co-chair's absence. If either co-chair unexpectedly misses a meeting of the Commission, the remaining co-chair shall preside over the Commission meeting without the need to name a co-chair *pro tem*.

#### **Rule 3.7 Rules of Order**

Except to the extent that it conflicts with the law of Ohio or these Rules, Robert's Rules of Order Newly Revised (11<sup>th</sup> ed.) shall govern the deliberative actions of the Commission.

**Rule 3.8 Attendance**

Unless otherwise provided by these Rules, a member of the Commission must be physically present at a meeting of the Commission in order to participate. A member shall not be permitted to name a designee to participate in a meeting of the Commission in place of the member.

**Rule 3.9 Quorum**

The presence of seventeen members of the Commission shall constitute a quorum.

**Rule 3.10 Proxy Voting**

No member of the Commission shall be permitted to vote on a question pending before the Commission by proxy vote.

**Rule 3.11 Action by the Commission**

Except as otherwise prescribed by law or these Rules, the Commission shall take no action or approve any question pending before it unless upon the presence of a quorum and the affirmative vote for approval by seventeen members of the Commission.

**Rule 3.12 Minutes**

All actions of the Commission shall be documented through the taking of minutes at every Commission meeting. Once a draft of the minutes is prepared, it shall be distributed to Commission members by the Executive Director or the director's designee. The proposed minutes shall then be considered for approval at the next meeting of the Commission.

**Section 4**  
**Committees and Subcommittees**

**Rule 4.1      Committee Formation**

The Commission may form as many committees as necessary for the purpose of completing its statutory duties. Committees shall only be created upon approval by the full Commission and shall be specifically referenced in these Rules.

**Rule 4.2      Committee Membership**

The co-chairs of the Commission shall appoint members to the committees formed by the Commission. In appointing members to the committees, the co-chairs of the Commission may consider the preferences of the members, but shall strive to maintain the same ratio of public and legislative members as serving on the full Commission and partisan balance among legislative members.

**Rule 4.3      Committee Chair and Vice-Chair**

The co-chairs of the Commission shall name a chair and vice-chair of each committee.

**Rule 4.4      Subcommittees**

Each committee may form as many subcommittees as it deems necessary for the purpose of completing its duties as set forth in these Rules. The chair of each committee shall appoint the membership of a subcommittee. The membership of a subcommittee shall reflect the same ratio of public and legislative members as serving on the full committee and partisan balance among legislative members. The chair of the committee creating the subcommittee shall name a chair of the subcommittee.

**Section 5**  
**Standing Committees**

**Rule 5.1      Creation**

The Commission shall maintain four standing committees as set forth in Rules 5.3, 5.4, 5.5, and 5.6. The Commission may form additional standing committees as required.

**Rule 5.2      Membership**

Each member of the Commission shall be assigned to sit on one standing committee.

**Rule 5.3      Organization and Administration Committee**

The Organization and Administration Committee shall serve as a standing committee for the purpose of making recommendations to the Commission and staff regarding budget, staffing, ethics, and rules.

**Rule 5.4      Public Information and Liaisons with Public Offices Committee**

The Public Information and Liaisons with Public Offices Committee shall serve as a standing committee for the purpose of making recommendations to the Commission and staff on how best to disseminate information to the public regarding the Commission and its operation, educate the citizens of Ohio regarding the Commission's proposals, receive input from the public, and provide information and maintain relations with all public offices reasonably affected, if at all, by any proposal or action of the Commission..

**Rule 5.5      [Repealed]**

**Rule 5.6      Coordinating Committee**

The Coordinating Committee shall serve as a standing committee for the purpose of coordinating the study of the Ohio Constitution by each subject matter committee. In addition to the provisions of the Ohio Constitution assigned to each subject matter committee for review under Rules 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8, the Coordinating Committee may assign additional provisions or topics for a subject matter committee to review and consider. The Coordinating Committee may provide input to the co-chairs of the Commission for the purpose of developing the agenda for full Commission meetings.

## **Section 7 Subject Matter Committees**

### **Rule 6.1      Creation**

The Commission shall maintain six subject matter committees as set forth in Rules 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8. The Commission may form additional subject matter committees as required.

### **Rule 6.2      Membership**

Each member of the Commission shall be assigned to sit on two subject matter committees.

### **Rule 6.3      Bill of Rights and Voting Committee**

The Bill of Rights and Voting Committee shall serve as a subject matter committee for the purpose of reviewing the provisions of Article I (Bill of Rights) of the Ohio Constitution dealing with the rights of all, including Sections 1, 2, 3, 4, 6, 7, 11, 13, 17, 18, 19, 19b, 20, and 21. In addition, the Committee shall review the provisions of the Ohio Constitution dealing with voting rights, including all sections of Article V (Elective Franchise) and Article XVII (Elections).

### **Rule 6.4      Constitutional Revision and Updating Committee**

The Constitutional Revision and Updating Committee shall serve as a subject matter committee for the purpose of reviewing the provisions of the Ohio Constitution dealing with amending, revising and updating its provisions through initiative and referendum, including Sections 1, 1a, 1b, 1c, 1d, 1e, 1f, and 1g of Article II (Legislative) and all sections of Article XVI (Amendments).

### **Rule 6.5      Education, Public Institutions, and Local Government Committee**

The Education, Public Institutions, and Local Government Committee shall serve as a subject matter committee for the purpose of reviewing the provisions of the Ohio Constitution dealing with the topics of education, school funding, public institutions, county and township organizations, municipal corporations, home rule, and miscellaneous matters, as well as the general topics of adjoining regionalization and economic development, including all sections of Article VI (Education), Article VII (Public Institutions), Article X (County and Township Organizations), Article XV (Miscellaneous), and Article XVIII (Municipal Corporations).

### **Rule 6.6      Finance, Taxation, and Economic Development Committee**

The Finance, Taxation, and Economic Development Committee shall serve as a subject matter committee for the purpose of reviewing the provisions of the Ohio Constitution dealing with the topics of public debt, public works, finance, taxation, and corporations, as well as the general topics of tax reform and statewide economic development, including all sections of Article VIII (Public Debt and Public Works), Article XII (Finance and Taxation), and Article XIII (Corporations).

**Rule 6.7      Judicial Branch and Administration of Justice Committee**

The Judicial Branch and Administration of Justice Committee shall serve as a subject matter committee for the purpose of reviewing the provisions of Article I (Bill of Rights) of the Ohio Constitution dealing with all rights under justice, including Sections 5, 8, 9, 10, 10a, 12, 14, 15, 16, and 19a. In addition, the Committee shall review the provisions of the Ohio Constitution dealing with the judicial branch of Ohio government, as well as the general topics of judicial organization, the criminal and civil justice systems, and the rights of the criminally accused, including all sections of Article IV (Judicial).

**Rule 6.8      Legislative Branch and Executive Branch Committee**

The Legislative Branch and Judicial Branch Committee shall serve as a subject matter committee for the purpose of reviewing the provisions of the Ohio Constitution dealing with the legislative branch and executive branch of Ohio government, the militia, apportionment and districting, term limits, and livestock care standards, as well as the general topic of global, statewide, and regional economic development, including Sections 2 through 42 of Article II (Legislative), Article III (Executive), Article IX (Militia), Article XI (Apportionment), Article XIV (Livestock Care Standards Board).

**Section 7.0**  
**Committee and Subcommittee Meetings**

**Rule 7.1 Meetings**

The committees of the Commission shall meet regularly, but not less than once every three months, on dates mutually agreed upon and specified by the chair of the committee and the co-chairs of the Commission, and at such other times as the chair of the committee may call. A subcommittee shall meet as frequently as required for the timely completion of its work.

**Rule 7.2 Location**

The committees of the Commission shall meet in Columbus at a location selected by the chair of the committee. With the approval of the co-chairs of the Commission, the chair of a committee may from time to time designate a location outside Columbus to conduct a meeting of the committee. A subcommittee shall meet at a location convenient for the participants in the meeting.

**Rule 7.3 Public Notice**

Notice of all meetings of committees and subcommittees of the Commission shall be posted to the Commission's website prior to the occurrence of the meeting and at a time not later than required by R.C. 121.22, Ohio's Open Meetings Act.

**Rule 7.4 Public Session**

All meetings of committees and subcommittees of the Commission shall be conducted in public session in accordance with R.C. 121.22, Ohio's Open Meetings Act.

**Rule 7.5 Agenda**

The chair of each committee and subcommittee shall, in consultation with the members of the committee or subcommittee, set the agenda for all regular and special meetings of the committee and subcommittee.

**Rule 7.6 Chair Presiding**

The chair of each committee and subcommittee shall preside at all meetings of the committee or subcommittee, maintain order, and, subject to appeal to the committee or subcommittees, decide questions of order. If the chair of a committee expects to miss a meeting of a committee, the vice-chair shall preside over the committee meeting.

**Rule 7.7 Rules of Order**

Except to the extent that it conflicts with the law of Ohio or these Rules, Robert's Rules of Order, Newly Revised (11<sup>th</sup> ed.) shall govern the deliberative actions of every committee and subcommittee.

**Rule 7.8 Attendance**

Unless otherwise provided by these Rules, a member of a committee or subcommittee must be physically present at a meeting of the committee or subcommittee in order to participate in the proceedings. A member shall not be permitted to name a designee to attend a meeting of a committee or subcommittee in place of the member.

**Rule 7.9 Quorum**

The presence of a majority of the members of a committee or subcommittee shall constitute a quorum.

**Rule 7.10 Proxy Voting**

No member of a committee or subcommittee shall be permitted to vote by proxy on a question pending before the committee or subcommittee.

**Rule 7.11 Action by a Committee or Subcommittee**

Except as otherwise prescribed by law or these Rules, a committee or subcommittee shall take no action or approve any question pending before it unless upon the presence of a quorum and the affirmative vote of a majority of the members of the committee or subcommittee.

**Rule 7.12 Minutes**

All actions of a committee or subcommittee shall be documented by the taking of minutes at each committee and subcommittee meeting. Once a draft of the minutes is prepared, it shall be distributed to committee or subcommittee members by the Executive Director or the director's designee. The proposed minutes shall then be considered for approval at the next meeting of the committee or subcommittee.

**Section 8.0**  
**Review of Existing Constitutional Provisions**

**Rule 8.1      Review by Subject Matter Committee**

To facilitate the full examination of the Ohio Constitution by the Commission, each subject matter committee shall review every section of the Ohio Constitution as assigned to it by these rules and, when required, the Coordinating Committee, and issue a report and recommendation to the Coordinating Committee as to whether the section should be amended in whole or in part, deleted in whole or in part, or whether no change should be made.

**Rule 8.2      Report and Recommendation**

(A)      A report and recommendation as issued by a subject matter committee regarding existing sections of the Ohio Constitution shall include (i) a summary of the history and meaning of the current section, (ii) a plain language summary of any proposed amendment, (iii) copies of all materials, testimony and other documents relied upon by the committee in preparing the report and recommendation, and (iv), as fully as necessary to provide for a thorough understanding of the examination which it undertook in review of the section, the rationale for its recommendation.

(B)      For the purpose of clarity and at the discretion of the subject matter committee, a report and recommendation may be issued for (i) each section of an article of the constitution, (ii) all sections contained within the same article, or (iii) sections contained in separate articles provided the subject matter of the material in each section is reasonably related to the same topic.

**Rule 8.3      Agenda**

Before voting to approve a report and recommendation regarding existing sections of the Ohio Constitution, a subject matter committee shall place the proposed report and recommendation on its written agenda. If the report and recommendation finds that an existing section should be amended, it shall be on the agenda for not less than two meetings for the purpose of allowing discussion by committee members and to receive comment from the public. If the report and recommendation finds that an existing section should not be changed, it shall be on the agenda for at least one meeting. The report and recommendation shall also be made available on the Commission's website as part of the notice of the meeting for the subject matter committee.

**Rule 8.4      Legislative Style; Joint Resolution Style**

When considering a report and recommendation that includes a proposal to amend a section in whole or in part or delete a section in whole or in part, a subject matter committee shall have the proposed section prepared in legislative style and joint resolution style. Subject matter committees shall work with Commission staff and, if appropriate, the Legislative Services Commission to assist in formatting the language in the appropriate styles.

**Rule 8.5      Majority Vote**

A report and recommendation prepared pursuant to Rule 8.2 may only be approved by affirmative vote of a majority of the members constituting the subject matter committee taken by roll call vote and recorded in the minutes of the meeting at which the vote was cast.

**Rule 8.6      Review by Coordinating Committee**

Upon receipt of a report and recommendation from a subject matter committee, the Coordinating Committee shall review the report and recommendation to determine if it meets the requirements of Rules 8.2 and 8.4. If the Coordinating Committee finds the report and recommendation to be complete, it shall forward the report and recommendation to the Commission co-chairs for the purpose of placing the matter on the agenda at a future Commission meeting. If the Coordinating Committee finds the report and recommendation not to be complete, it shall return the matter to the subject matter committee for further consideration.

**Section 9.0**  
**Review of Proposed Constitutional Amendments**

**Rule 9.1 Proposed Constitutional Amendments**

Commission members wishing to propose amendments on subject matters outside the scope of the committees on which they serve may offer proposed amendments by submitting the proposed amendment, in writing, to the Coordinating Committee to be assigned to a subject matter committee for its review. If the Coordinating Committee does not assign the proposed amendment to a subject matter Committee within ninety days of receipt of the proposal, a majority of the Commission members present at a Commission meeting may vote to assign the proposed amendment to a subject matter committee for its consideration.

**Rule 9.2 Review by Subject Matter Committee**

To facilitate the full examination of each proposed amendment assigned to a subject matter committee by the Coordinating Committee pursuant to Rule 9.1, the subject matter committee shall review the proposed amendment and issue a report and recommendation to the Coordinating Committee as to whether the proposed amendment should be adopted as presented, adopted after amendment in whole or in part, or not adopted.

**Rule 9.3 Report and Recommendation**

(A) A report and recommendation as issued by a subject matter committee regarding proposed amendments of the Ohio Constitution submitted pursuant to Rule 9.1 shall include (i) a summary of the history of any similar versions of the proposed amendment that may have been part of the Ohio Constitution in the past or considered at the ballot by the voters of the state and meaning of the current section, (ii) a plain language summary of the proposed amendment, (iii) copies of all materials, testimony and other documents by the committee in preparing the report and recommendation, and (iv), as fully as necessary to provide for a thorough understanding of the examination which it undertook in review of the section, the rationale for its recommendation.

(B) For the purpose of clarity and at the discretion of the subject matter committee, a report and recommendation of a proposed amendment prepared pursuant to this rule should be prepared for the entirety of the proposed amendment.

**Rule 9.4 Agenda**

Before voting to approve a report and recommendation prepared pursuant to Rule 9.3, a subject matter committee shall place the proposed report and recommendation on its written agenda for not less than two consecutive meetings for the purpose of allowing discussion by committee members and to receive comment from the public. The proposed report and recommendation shall also be made available on the Commission's website as part of the notice of the meeting for the subject matter committee.

**Rule 9.5 Legislative Style; Joint Resolution Style**

When considering a report and recommendation that includes a proposal to amend a section in whole or in part or delete a section in whole or in part, a subject matter committee shall have the proposed section prepared in legislative style and joint resolution style. Subject matter committees shall work with Commission staff and, if appropriate, the Legislative Services Commission to assist in formatting the language in the appropriate styles.

**Rule 9.6 Majority Vote**

A report and recommendation prepared pursuant to Rule 9.3 may only be approved by affirmative vote of a majority of the members constituting the subject matter committee taken by roll call vote and recorded in the minutes of the meeting at which the vote was cast.

**Rule 9.7 Review by Coordinating Committee**

Upon receipt of the report and recommendation from a subject matter committee recommending the action to be taken on a proposed amendment of the Ohio constitution as submitted pursuant to Rule 9.1, the Coordinating Committee shall review the report and recommendation to determine if it meets the requirements of Rules 9.2 and 9.5. If the Coordinating Committee finds the report and recommendation to be complete, it shall forward the report and recommendation to the Commission co-chairs for the purpose of placing the matter on the agenda of a future Commission meeting. If the Coordinating Committee finds the report and recommendation not to be complete, it shall return the matter to the subject matter committee for further consideration.

**Rule 9.8 Failure to Act**

If a subject matter committee fails to issue a report and recommendation regarding a proposed amendment submitted to it for its review pursuant to Rule 9.1 within one year from the date it was referred to the committee by the Coordinating Committee, the chair of the subject matter committee shall issue a written report to the co-chairs of the Commission explaining why no action has been taken. The Commission co-chairs may then direct the Coordinating Committee to reassign the proposed amendment to another subject matter committee for its review and recommendation.

**Section 10.0**  
**Action by Commission**

**Rule 10.1     Agenda**

Upon receipt of a report and recommendation from the Coordinating Committee, as issued by a subject matter committee, the Commission co-chairs shall place the matter upon the written agenda for a future Commission meeting. The proposed report and recommendation shall also be made available on the Commission's website as part of the notice of the Commission meeting.

**Rule 10.2     Presentation to Commission**

(A)     When the report and recommendation of a subject matter committee is placed upon the agenda for a Commission meeting, the Commission co-chairs shall require the chair of the subject matter committee that has issued the report and recommendation to present an oral summary of the report and recommendation to the Commission members.

(B)     Following the oral summary, the Commission co-chairs shall allow an opportunity for public testimony regarding the report and recommendation.

**Rule 10.3     Action by Commission**

At the Commission meeting following the oral summary of a report and recommendation and an opportunity for public testimony, the Commission may take any one of the following actions:

(A)     If the report and recommendation of a subject matter committee finds that an existing section or sections of the Ohio Constitution should not be changed, the report and recommendation may be approved by affirmative vote of seventeen members of the members constituting the Commission taken by roll call vote as recorded in the minutes of the meeting at which the vote was cast.

(B)     If the report and recommendation of a subject matter committee finds that an existing section or sections of the Ohio Constitution should be amended by the addition to or deletion from language contained in the existing section, the Commission shall take the matter under advisement until the next Commission meeting. At the Commission meeting following that meeting, the report and recommendation may be approved by affirmative vote of twenty-two members of all members constituting the Commission taken by roll call vote and recorded in the minutes of the meeting at which the vote was cast.

(C)     If the report and recommendation of a subject matter committee finds that a proposed amendment to the Ohio Constitution as submitted pursuant to Rule 9.1 should be adopted, the Commission shall take the matter under advisement until the next Commission meeting. At the Commission meeting following that meeting, the report and recommendation may be approved by affirmative vote of twenty-two members of all

members constituting the Commission taken by roll call vote and recorded in the minutes of the meeting at which the vote was cast.

(D) Table the report and recommendation until the next meeting of the Commission.

(E) Refer the report and recommendation to the subject matter committee which issued the report and recommendation for further consideration or action.

#### **Rule 10.4 Referral to General Assembly**

If the Commission votes to adopt a report and recommendation of a subject matter committee pursuant to Rule 10.3 that finds a section or sections of the Ohio Constitution should be amended by the addition to or deletion from language contained in the existing section or sections or that a proposed new amendment should be adopted, the Commission co-chairs shall present the report and recommendation as approved by the Commission to the President of the Senate and Speaker of the House of Representatives by filing it with the clerk of each respective chamber of the Ohio General Assembly.

**Section 11.0**  
**Public Records and Website**

**Rule 11.1     Public Records**

Copies of public records maintained by the Commission shall be made available to the public as provided by R.C. 149.43.

**Rule 11.2     Website**

The Commission shall maintain a website for the purpose of chronicling the work of the Commission, allowing for the submission of suggestions for repealing or amending provisions of the Ohio Constitution, and serving as a means for the public to comment on the work of the Commission.

**Section 12.0**  
**Recording and Broadcasting of Meetings**

**Rule 12.1     Broadcasting, Recording, and Photographing of Commission Meetings.**

(A) To the extent available and under such conditions as they may jointly establish, the Commission co-chairs shall permit and arrange for real time, broadcast coverage of Commission meetings through Ohio Government Telecommunications.

(B) To the extent available and under such conditions as they may jointly establish, the Commission co-chairs shall permit and arrange for the video and audio recording of Commission meetings through Ohio Government Telecommunications.

(C) The Commission co-chairs, upon written request and under such conditions as they may jointly establish, may permit the photographing of Commission meetings through the Ohio Legislative Correspondents Association.

**Rule 12.2     Broadcasting, Recording, and Photography of Committee Meetings**

(A) A committee chair or vice-chair, with the approval of the Commission co-chairs and under such conditions as they shall jointly establish, may permit and arrange for real time, broadcast coverage of a committee meeting through Ohio Government Telecommunications.

(B) A committee chair or vice-chair, with the approval of the Commission co-chairs and under such conditions as they may jointly establish, may permit and arrange for the video and audio recording of a committee meeting through Ohio Government Telecommunications.

(C) A committee chair or vice-chair, upon written request and under such conditions as the chair or vice-chair shall establish, may permit the photographing of committee meetings through the Ohio Legislative Correspondents Association.

**Rule 12.3     Forms**

The Organization and Administration Committee may promulgate forms to facilitate the fair and efficient application of Rules 12.1, 12.2 and 12.3.

**Section 13.0**  
**Grants, Gifts, Devises, and Bequests**

**Rule 13.1 Approval by Commission; Appearance of Undue Influence**

The Commission may accept a grant, gift, devise, or bequest, provided two-thirds of the sitting members of the Commission agree that neither (i) the objectivity of the Commission's work or its recommendation to the General Assembly nor (ii) the public's perception of the Commission's objectivity of its work or its recommendation to the General Assembly, may reasonably be drawn into question or raise an appearance of undue influence.

**Rule 13.2 Donors**

The Commission may accept a grant, gift, devise, or bequest from one or more of the following:

- (A) an individual;
- (B) a public or private not-for-profit university;
- (C) an organization exempt from federal income tax under I.R.S. Code Sec. 501(c)(3);
- (D) a publicly-traded corporation;
- (E) a limited liability corporation, including a limited liability company registered with the Ohio Secretary of State, that discloses to the Commission both the identity of its members and the sources of the financial support it offers;
- (F) any other entity that discloses to the Commission both the identity of its officers, directors, and trustees and the sources of the financial support it offers.

**Section 14.0**  
**Reimbursement of Expenses**

**Rule 14.1     Reimbursement**

Commission members and staff may obtain reimbursement for actual and necessary expenses, including mileage, parking, meals, and lodging, incurred while performing official duties for the Commission, including special research or study relating to the Ohio Constitution.

**Rule 14.2     Reimbursement Rates**

Pursuant to R.C. 126.31(B), Commission members and staff shall be reimbursed for their expenses at the rates set by the Office of Budget and Management.

**Rule 14.3     Forms**

The Commission may adopt forms for the purpose of claiming reimbursement of expenses upon the recommendation of the Organization and Administration Committee.

**Section 15.0**  
**Miscellaneous**

**Rule 15.1      Amendment of Rules**

The Commission may from time amend or expand these Rules upon recommendation of the Organization and Administration Committee.

**Rule 15.2      Suspension of Rules**

The application of any one of these Rules may be suspended by affirmative vote of twenty-two members of the Commission.

**Rule 15.3      Effective Date**

Adopted effective September 11, 2014; amended effective September 10, 2015; amended effective October 13, 2016; amended effective December 15, 2016.

# **Appendix 3**

## **Ohio Constitutional Modernization Commission**

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### **Member and Staff Biographies**

## OCMC Legislative Members



bFrom: Wooster  
Member: 2015-2016

### **Ron Amstutz**

State Representative Ron Amstutz represents Wayne County in the Ohio House of Representatives and serves as Chairman of the House Finance and Appropriations Committee. From 2001 through 2008, Ron served in the Ohio Senate, where his primary appointment was Chairman of Ways and Means and Economic Development. Prior to the Senate, Ron served 20 years in the Ohio House of Representatives in numerous leadership roles. Ron's political career started in 1976 when he was elected Mayor of the City of Orrville. Ron held the position through 1980, when he ran successfully for the Ohio House.

Ron is active in local civic and volunteer organizations. He is the past president and chairman of the board for the Orrville Jaycees. He also served as an elected member of the Orrville City Charter Commission. Ron is a long-standing member of the board of the Orrville Area Boys' and Girls Club and is a member of Wooster Rotary Club. He is a member of the Wayne County Republican Party, sitting on its Executive Committee.

Ron is a graduate of Central Christian High School and holds a B.A. degree in Government Communications from Capital University.



From: Medina  
Member: 2011-2014

### **William G. Batchelder**

Speaker of the Ohio House William G. Batchelder returned to the Ohio House of Representatives in 2007, having previously served in the Ohio House for 30 years. During his tenure at the Ohio House, Speaker Batchelder has been recognized numerous times with the Watchdog of the Treasury Award.

Speaker Batchelder graduated from Medina High School in 1960. He later received a bachelor's degree from Ohio Wesleyan University in 1964, as well as a Juris Doctorate from The Ohio State University College of Law in 1967.

Speaker Batchelder has established a long career in practicing and teaching law. Additionally, he was a judge on the Medina County Common Pleas Court and the Ninth District Court of Appeals.

Speaker Batchelder serves as a member of the Board of Governors of the Masonic Learning Center for Children, an organization that treats children with dyslexia. He is also an active participant in the Scanlon Inn of Court. He currently resides in Medina with his wife, Alice. They have two children and four grandchildren.

## OCMC Legislative Members



From: Kent  
Member: 2011-2014

### **Capri Cafaro**

Senator Capri S. Cafaro represents the 32nd Ohio Senate District. She graduated from Stanford University with a BA in American Studies and from Georgetown University with a MALS in International Studies. She has a long standing interest in public policy pertaining to health care and the needs of older adults. Senator Cafaro has also acted as an Economic Policy Associate for Global Action on Aging, an NGO with consultative status at the United Nations. Additionally, as a participant in the Clinton Global Initiative, she developed a project on Anti-Corruption efforts in emerging democracies.

Senator Cafaro has served as Minority Leader and currently serves as the Ranking Member on the Senate Standing Committees on Health, Human Services, and Aging and Highways and Transportation. She has been recognized by numerous organizations for her leadership in advocating health care-related legislation and supporting Ohio's bio products industry. Senator Cafaro has been further recognized for her service by such organizations as Ohio Jewish Communities, the National Italian American Foundation, the Ohio State Lodge of the Fraternal Order of Police, and the Ohio Children's Hospital Association.



From: Kent  
Member: 2011-2017

### **Kathleen Clyde**

Kathleen Clyde is the State Representative for the 75th Ohio House District. She serves as a member of several committees, including the Finance & Appropriations Committee, and the Redistricting Reform Task Force.

Kathleen graduated from The Ohio State University Moritz College of Law as a Public Service Fellow with the Dean's Highest Honors. While at OSU, Kathleen was an editor of the law review, president of the Public Interest Law Foundation, and a student researcher and analyst at OSU's Election Law Center. She also served as a law clerk for the Ohio Secretary of State and the Ohio Senate and earned a summer fellowship at the Brennan Center for Justice at New York University for the study of election law.

After OSU, she became Deputy Legal Counsel to the Speaker of the Ohio House of Representatives, where she worked on legal issues ranging from access to the courts to voting rights. Kathleen is currently an associate in the Kent law firm of Williams, Welser, Kratcoski & Can. She is a noted expert in election law and has spoken on election law issues at the Ohio State, Capital University and Harvard Law Schools.

## OCMC Legislative Members



From: Liberty Twp.  
Member: 2013-2017

### **Bill Coley**

State Senator Bill Coley represents the 4th Ohio Senate District, which includes the majority of Butler County. He is the Chairman of the Senate Standing Committee on Civil Justice. Prior to his appointment to the Senate, Coley was elected to four terms in the Ohio House of Representatives where his background in financial matters led him to be named chairman of the House Financial Institutions, Housing and Urban Development Committee.

In addition to his legislative duties, Coley works as a commercial litigation attorney with the firm of Strauss and Troy and is licensed to practice in Ohio, Kentucky and Indiana. An active member of his community, Coley is involved in the Butler County Republican Party, St. John's Catholic Church, Sons of the American Legion and the Boy Scouts of America.

Coley received his bachelor's degree in finance from the University of Dayton and his law degree from the Cleveland-Marshall College of Law. A licensed pilot, he and his wife Carolyn live in Liberty Township.



From: Columbus  
Member: 2017

### **Hearcel F. Craig**

Representative Hearcel Craig was first elected to serve constituents of the 26th House District in November 2014. His experiences earned him the position of Ranking member of the House Armed Services, Veterans Affairs and Homeland Security Committee. Rep. Craig also serves on the Aging and Long Term Care Committee as well as the Financial Institutions, Housing, and Urban Development Committee and the Public Utilities Committee.

Craig's has spent decades in public service at the state and local level, including as legislative liaison for the Ohio Department of Youth Services, director of recruitment & admissions for City Year, and executive director of the Hilltop Civic Council. Most recently, as a Columbus City Councilman, Craig led the city's Veterans Affairs Committee and was also a strong advocate for public recreation centers.

Representative Craig earned a Master of Science in Administration degree from Central Michigan University and was a Join Together National Leadership Fellow at Boston University School of Public Health. He proudly served our nation in the United States Army from 1970-1972.

## OCMC Legislative Members



From: Lima  
Member: 2015-2017

### **Robert R. Cupp**

Representative Robert R. Cupp represents the 4th District that serves Allen County. Cupp has served as an elected official in all three branches of government and at the local and state levels: as an Allen County commissioner, a four-term state senator, a court-of-appeals judge, and a justice of the Supreme Court of Ohio. He also served as a city prosecutor and Chief Legal Counsel to Ohio Auditor of State, Dave Yost. In the Senate, he served two terms as the President Pro Tempore.

In addition to his public service, he engaged in the private practice of law in Lima for more than 25 years and has taught courses in leadership studies, judicial process, and state education policy at Ohio Northern University.

He received his Bachelor of Arts degree in political science from Ohio Northern University and his law degree from the Ohio Northern University Claude W. Pettit College of Law. He and his wife Libby have two sons and two grandchildren.



From: Marble Cliff  
Member: 2014-2016

### **Michael F. Curtin**

Mike Curtin was elected to the Ohio House of Representatives for the 17th District, an area that covers much of West and South Columbus. Representative Curtin has worked to promote civility and bipartisanship in the effort to address Ohio's problems. He believes there must be more efforts to counter the overly partisan behavior that undermines public confidence in government.

Representative Curtin is retired from The Dispatch Printing Company after a 38-year career as reporter, public affairs editor, managing editor, editor, associate publisher, chief operating officer, vice chairman and consultant. For 18 years, most of his reporting career, he specialized in the coverage of state and local government, public policy and politics. He is the author of The Ohio Politics Almanac, 1st and 2nd editions, published by Kent State University Press, and has served on numerous community and civic boards.

Representative Curtin is a native of Columbus, a graduate of Bishop Watterson High School and The Ohio State University School of Journalism. He and his wife, Sharon Curtin, have been married for 37 years and reside in the Village of Marble Cliff; they have two children and two grandchildren. Representative Curtin is a licensed umpire for the Ohio High School Athletic Association.

## OCMC Legislative Members



From: Madeira  
Member: 2017

### **Jonathan Dever**

State Representative Jonathan Dever represents the 28th House District, which includes the northern suburbs of Hamilton County. In the House, Dever has been an outspoken advocate for reforms in lending and housing issues. He sponsored comprehensive foreclosure reform legislation, and a first-of-its-kind lender modification program. Dever has been a strong voice of the disabled, authoring and shepherding the Ohio Able Act.

Representative Dever, the founding and managing member of The Dever Law Firm located in West Chester, Ohio, has more than 20 years of legal experience. Dever has been recognized by Strathmore's Who's Who, and as a Super Lawyer Rising Star by Law and Politics.

He is a graduate of the University of Cincinnati. He obtained his Master's Degree in Industrial Labor Relations from Indiana University of Pennsylvania, and his J.D. from Capital University Law where he was a member of the Law Review Staff.

Representative Dever grew up in Montgomery, Ohio and currently resides in Madeira with his wife, Martha, and their two sons.



From: Celina  
Member: 2013

### **Keith Faber**

State Senator Keith Faber represents the 12th State Senate District, encompassing much of west-central Ohio. Faber serves as President of the Senate. Before joining Senate Leadership, Faber served on several influential Senate committees, including the budget-writing Finance & Financial Institutions Committee. Prior to his election to the Senate, Senator Faber served three terms in the Ohio House of Representatives.

Outside of his legislative duties, Faber is the principal partner with Faber and Associates in Celina, a law firm specializing in civil litigation and mediation. He earned his Juris Doctorate from The Ohio State University in 1991. He did his undergraduate work in public administration/policy at Oakland University in Michigan.

Senator Faber remains active in the community including holding membership in the Mercer County Republican Party, several different Chambers of Commerce and Farm Bureaus. Faber and his wife Andrea reside just outside Celina with their two young children and attend St. John's Lutheran Church.

## OCMC Legislative Members



From: McDonald  
Member: 2017

### **Glenn Holmes**

Glenn Holmes, is the new State Representative for the 63rd District after serving on as Mayor of McDonald, Ohio for nine years and as a councilman before that. As mayor, Holmes was able to help save the Village of McDonald millions in healthcare costs and to maintain investments in essential services while providing community enhancements like a new community center and summer splash park.

Holmes has been a member and leader of numerous local, regional and state organizations, including Ohio Public Works Commission; Natural Resource Advisory Council; Eastgate Regional Council of Governments; Chairman Mahoning River Mayors Association; Youngstown Air Reserve Base Community Council; Trumbull County Community Foundation; Trumbull County Transit Board; Youngstown Warren Regional Chamber of Commerce.

Holmes is a graduate of Girard High and earned his Bachelor of Arts in Sociology from Mount Union University. Holmes is a proud father of three adult children and grandfather of four, who believes in working across the aisle in a bipartisan spirit of cooperation to build new relationships and get things done.



From: Lima  
Member: 2011-2014

### **Matt Huffman**

State Representative Matt Huffman represents the 4th House District, which includes all of Allen County. He serves as the House speaker pro tempore and previously served as the House majority floor leader. During his time in the General Assembly, Representative Huffman has received the Watchdog of the Treasury Award and been honored by the Ohio State Medical Association with its Voice of Medicine Award.

Representative Huffman is a partner with the law firm of Huffman, Kelley, Brock & Gottschalk, LLC, where he has practiced since 1985. He was elected to serve as Lima City Council President from 1998-2006 and was on Council for six years prior. He is a member of the Knights of Columbus, Heartbeat of Lima, Lima Chamber of Commerce and B.P.O.E. Elks Lodge 54.

Representative Huffman was born and raised in Lima and graduated from Lima Central Catholic High School in 1978. He received his bachelor's degree from the University of Notre Dame and his law degree from the University of Cincinnati. He and his wife, Sheryl, live in Lima and have four children.

## OCMC Legislative Members



From: Clearcreek Twp.  
Member: 2011-2013

### **Shannon Jones**

Shannon Jones was elected in 2009 as Ohio Senator for the 7th senate district, which includes all of Warren County. She previously served in the Ohio House of Representative from 2007-2009. Jones was the first Republican woman in Ohio to serve in the leadership of the majority party in both chambers.

Jones earned her Bachelor of Arts in Communications from the University of Cincinnati and her professional experience includes working as chief of staff for Congressman Steve Chabot, as a regional representative for State Treasurer Joe Deters, and as a district director for U.S. Senator Mike DeWine. She also served as the Executive Director of the Hamilton County Republican Party.

Jones and her husband Russell, live in Clearcreek Township where they are raising their two children, Jacob and Anna. The Jones family attends Saint Mary's Parish in Springboro and enjoys spending time at local sporting events.



From: Ostrander  
Member: 2016-2017

### **Kris Jordan**

Senator Kris Jordan represents the 19th District, which encompasses Delaware and Knox counties, as well as portions of Franklin County. Senator Jordan currently serves as Chairman of the Senate Finance General Government Subcommittee and as a member of the Government Oversight and Reform Committee, State and Local Government Committee, Education Committee, Ways and Means Committee, and Medicaid Committee.

At age 25, Jordan was elected to his first term as Delaware County Commissioner. He served six years as commissioner before being elected to serve as a State Representative in 2008, representing the 2nd House District. Jordan was the first freshman in Ohio House history to be elected to House leadership as Assistant Minority Whip.

Throughout his career, Senator Jordan has proven himself to be a strong fiscal conservative, and is also a strong social conservative. He is an active member of the National Rifle Association, Delaware County Right to Life, and the Delaware County Farm Bureau.

Senator Jordan received a bachelor's degree in political science from The Ohio State University and is an active member of his community. Senator Jordan, his wife, Melissa, and their two children live in Ostrander and attend LifePoint Christian Church.

## OCMC Legislative Members



From: Cincinnati  
Member: 2011-2012

### **Eric H. Kearney**

Eric H. Kearney has had a career in law, business, and politics. As a state senator, Eric served as Ohio Senate Minority Leader. He championed a number of causes including adoption, children's health, small business development, and pension reform. On a national level, Eric was a member of President Barack Obama's national finance committee when he ran for U.S. Senate and President.

Eric is managing partner of Kearney & Kearney, LPA. He has six reported cases and authored a law review article, *An Analysis of Election Day Error in Ohio's 2012 General Election*. He was one of the first African Americans to become a partner in one of Cincinnati's major law firms.

In addition to politics and law, Eric founded and built one of the largest African American owned publishing companies, Sesh Communications. Eric has served on some of Cincinnati's most prestigious civic and community boards.

Eric graduated from St. Xavier High School, earned a B.A. in English from Dartmouth College. He is married to Jan-Michele Lemon Kearney Esq. They have two children. In 2004 the Kearney family was honored as the Black Family Reunion's "Family of the Year."



From: North Ridgeville  
Member: 2015

### **Nathan Manning**

Representative Nathan Manning represents the 55th Ohio House District, which encompasses a portion of Lorain County.

Representative Manning is a lifelong resident of Lorain County and a graduate of North Ridgeville High School. He then received a B.A. in Political Science from Denison University, and earned a Juris Doctor from Capital University Law School. He previously served as a prosecutor for the city of North Ridgeville.

Active in his community, Rep. Manning is involved in organizations such as the North Ridgeville Chamber of Commerce, Lorain County Bar Association, Lorain County Historical Society, and is Vice President of the North Ridgeville Republican Club.

Rep. Manning currently resides in North Ridgeville with his wife Jennifer.

## OCMC Legislative Members



From: Napoleon  
Member: 2015-2017

### **Robert McColley**

Representative Robert McColley represents the 81st District, which includes Putnam, Henry, and Williams counties, as well as part of Fulton County.

Prior to being elected to the House, he served in the Community Improvement Corporation of Henry County, where he oversaw economic development efforts for the county and worked to improve local workforce development efforts between manufacturers and schools in Henry and Williams counties.

In addition, he is a former trustee of the Ohio Fallen Heroes Memorial in Sunbury, Ohio, which honors Ohio's men and women who have died in the war on terror. Other examples of his community involvement include being a trustee of the Henry County Community Foundation, board member for the Henry County Board of Developmental Disabilities, a member of the OSU Alumni Club of Northwest Ohio, and a board member of the Center for Child and Family Advocacy.

He lives in Napoleon with his wife, Denise.



From: Sandusky  
Member: 2011-2013

### **Dennis Murray**

State Representative Dennis Murray (D-Sandusky) finished serving his second and final term as the voice of the 80th Ohio House District in northern Ohio. Rep. Murray earned his bachelor's degree (magna cum laude) and his law degree (cum laude) from Georgetown University.

He returned to Murray & Murray Co., LPA, his family's law firm in Sandusky where he practices as a trial attorney, working on cases dealing with economic issues, including contracts, antitrust, securities, and investor and banking fraud. In 2005, the voters of Sandusky elected him as a city commissioner. In addition to his political and legal work, Rep. Murray has immersed himself in his community.

He is a lector and Eucharistic minister and formerly co-chaired the Sts. Peter & Paul Church Pastoral Council. Rep. Murray and his wife Martha have four children in school.

## OCMC Legislative Members



From: Medina  
Member: 2011-2016

### **Larry Obhof**

Larry Obhof represents the people of the 22nd Senate District, which includes Medina, Wayne, and Holmes counties, as well as portions of Ashland County. Senator Obhof is focused on improving Ohio's economy and advocating fiscal responsibility, smaller government, and lower taxes. Senator Obhof served as Senate President and in leadership roles on various Senate committees.

In addition to his legislative duties, Senator Obhof is an attorney with the national law firm Baker & Hostetler LLP. He was part of the legal team that challenged the constitutionality of President Obama's health care law. He is also an adjunct professor at Case Western Reserve University School of Law, where he teaches a course on legislation.

Obhof graduated with degrees in Economics, History, and Political Science from The Ohio State University. He earned his law degree from Yale Law School. Senator Obhof resides in Medina with his wife, Nicole, and their three daughters.



From: Fayette County  
Member: 2013-2017

### **Bob Peterson**

Bob Peterson represents the 17th Ohio Senate District, which encompasses Clinton, Fayette, Gallia, Highland, Jackson, Pike and Ross counties as well as portions of Lawrence, Pickaway and Vinton counties. Peterson currently serves as the Chairman of the Ways & Means Committee.

A farmer by trade, Senator Peterson and his family are the eighth generation of Petersons to farm in the U.S. He also has been active in the Farm Bureau in a variety of leadership positions, culminating to his position as Ohio Farm Bureau President for nearly five years.

In addition to his farming duties, Senator Peterson served as a Fayette County Commissioner for 14 years before being elected to the Ohio House of Representatives in 2011. He joined the Ohio Senate in 2012.

Peterson received his bachelor's degree from The Ohio State University, and is also a graduate of its LEAD Program, an intense two-year agriculture leadership program.

Senator Peterson and his wife Lisa are the proud parents of three children. The family lives on their farm in Fayette County. They are active in church, 4-H, FFA and other community activities.

## OCMC Legislative Members



From: Akron  
Member: 2014-2016

### **Tom Sawyer**

Senator Sawyer began his public career in 1976 in the Ohio House of Representatives. Drawing on his experience as an educator, he served as Chair of Ohio's House Education Committee. After his tenure in the Ohio House of Representatives, Senator Sawyer was elected Mayor of Akron in 1983. He was then elected to the U.S. Congress where he served for 16 years. In Congress, Senator Sawyer maintained his focus on education, serving on the Education Committee and authoring the National Literacy Act and the Eisenhower Mathematics and Science Improvement Act.

Senator Sawyer served a brief tenure on the State Board of Education before filling the 28th District vacancy in the Ohio Senate in 2007. He continues to work on the same issues that brought him to the legislature over 30 years ago: planning for a strong energy future and stabilizing the public education system in Ohio. He serves as Ranking Minority Member on the Senate Finance and Education committees, and as a member on the Senate Public Utilities and Criminal Justice committees and Finance Sub-Committee on Education. Senator Sawyer also serves on the State Controlling Board.



From: Boardman  
Member: 2014

### **Joe Schiavoni**

Senator Joe Schiavoni represents the 33rd Senate District, which encompasses all of Columbiana and Mahoning Counties. In 2013, Senator Schiavoni was elected the Democratic Leader of the Senate. As a legislator, Senator Schiavoni has strived to make job creation and economic development a top priority and has been a strong advocate of increased funding for K-12 education.

Senator Schiavoni graduated from Boardman High School. As a young person, Senator Schiavoni worked at Catullo Prime Meats and Fab-Art Inc., formerly a heavy metal fabrication plant. He received a Bachelor of Science in Communications from Ohio University in Athens, Ohio, and a Jurist Doctor from Capital University Law School in Columbus. Following law school, Senator Schiavoni has practiced workers compensation law with his dad at the law firm Schiavoni, Schiavoni, Bush and Muldowney.

Back home in the district, Senator Schiavoni likes to remain active in the community as a member of various boards and associations.

Sen. Schiavoni and his wife Margaret, a nurse-anesthetist, reside in Boardman with their two children.

## OCMC Legislative Members



From: Lakewood  
Member: 2011-2017

### **Michael Skindell**

Senator Michael Skindell represents Ohio's 23rd Senate District. He comes from the Ohio House of Representatives, where he served four terms as the Representative of Ohio's 13th House District. He served as an Assistant Ohio Attorney General under Attorney General Anthony J. Celebrezze, Jr. Between 1989 and 1999, he served as a hearing officer for the Ohio Department of Health, presiding over nearly 300 cases of resident abuse and rights violations in nursing homes. He also started a private practice representing consumers.

He is a member of the National Caucus of Environmental Legislators, as well as the Council of State Government's Midwestern Radioactive Materials Transportation Committee. He is a member of the Board of Single Payer Action Network Ohio, which advocates for universal health care. He also serves on the Lakewood Chamber of Commerce, the Lakewood Democratic Club and the Cuyahoga County Democratic Party.

He graduated cum laude with bachelor's degrees in business and political science from Walsh College and a law degree from the Cleveland-Marshall College of Law.



From: Copley  
Member: 2011-2012

### **Marilyn Slaby**

State Representative Marilyn Slaby represents the 38th District, which includes western portions of Summit and Stark counties.

Born and raised in Summit County, State Representative Slaby now resides in Copley. She was a graduate of Cuyahoga Falls High School and went on to graduate from Heidelberg College, where she received a Bachelor's of Science in Education. Upon graduation, Representative Slaby returned to her alma mater of Cuyahoga Falls to teach. She went on to run a preschool and to serve as an administrative assistant at the Summit County Board of Elections, in addition to owning two small businesses.

In 2004, Representative Slaby was appointed to a seat in the Ohio House of Representatives. She was appointed to serve again during the 129th General following the resignation of her husband, former State Representative Lynn Slaby, who left to take the post of commissioner of the Ohio Public Utilities Commission.

Representative Slaby and her husband have three children and four grandchildren.

## OCMC Legislative Members



From: Anderson Twp.  
Member: 2013

### **Peter Stautberg**

State Representative Peter Stautberg represents the 27th House District, which includes portions of eastern Hamilton County.

In addition to his work in the Legislature, Representative Stautberg works as a lawyer with Fifth Third Bank. He has been involved in many non-profit organizations, and is a member of the Immaculate Heart of Mary Parish.

Representative Stautberg earned his bachelor's degree from Kenyon College, his Master of Business Administration from The Ohio State University Fisher College of Business and Juris Doctorate from The Ohio State University Moritz College of Law.

Representative Stautberg lives in Anderson Township where he and his wife, Lee, are the proud parents of two daughters.



From: Akron  
Member: 2015-2016

### **Emilia Sykes**

Rep. Sykes serves as Ranking Member of the House Finance and Appropriations Subcommittee on Health and Human Services. She also serves on the House Finance and Appropriations Committee, House Judiciary Committee, House Ways and Means Committee and the Joint Medicaid Oversight Committee.

Sykes graduated magna cum laude from Kent State University with a B.A. in Psychology. She earned her J.D. with a Certificate in Family Law from the University of Florida Levin College of Law. The same year, she earned her Master of Public Health from the University of Florida College of Public Health and Health Professions.

While in law school, Rep. Sykes spent a year volunteering with the Intimate Partner Violence Assistance Clinic. She worked directly with victims of sexual and partner violence, helping them with safety planning and finding the social and legal services they needed.

As the Administrative Staff Advisor at the Summit County Fiscal Office, Sykes worked to establish a county land bank to repurpose vacant and abandoned property. Previously, at Community Legal Services in Akron, Rep. Sykes offered access to quality health and legal services to people in need.

## OCMC Legislative Members



From: Akron  
Member: 2012-2014

### **Vernon Sykes**

Senator Vernon Sykes represents the 28th district, which includes much of Akron and Summit County. Senator Sykes previously served in Akron City Council and the Ohio House of Representatives. While in the Ohio House, he served as Assistant Majority Floor Leader and was also chosen as President of the Ohio Legislative Black Caucus. Senator Sykes has worked to expand access to early childhood education and make higher education more affordable. His redistricting reform efforts also led to a successful ballot initiative to redraw Ohio's state legislative districts in a bipartisan manner.

Since 2001, Dr. Sykes has been a professor of Political Science and Director of the Columbus Program in State Issues at Kent State University. Dr. Sykes earned his B.B.A. in Management and Organizational Behavior from Ohio University, a Masters of Social and Applied Economics from Wright State University and a Masters of Public Administration from Harvard University. He later earned a Ph.D. in Public Administration from the University of Akron.

Senator Sykes is married to Barbara Sykes, State Director of AARP. They have two daughters and two grandchildren.



From: Columbus  
Member: 2011-2017

### **Charleta B. Tavares**

Charleta B. Tavares is the first African American and Democrat woman to serve as a state Senator from central Ohio. She serves on a number of committees including Health, Human Services and Aging, Finance, State and Local Government and Veterans Affairs, Joint Committee on Agency Rule Review (JCARR), Ways and Means and Economic Development (Ranking Member).

She is a committed public servant who served as a member of Columbus City Council from 1999-2010. Prior to joining City Council, Tavares served in the Ohio House of Representatives.

Tavares is the Executive Director of the Multiethnic Advocates for Cultural Competence (MACC), a statewide non-profit organization whose mission is to enhance the quality of care in Ohio's behavioral healthcare system and to incorporate cultural competence into systems and organizations that provide care to Ohio's vulnerable and at risk populations. Tavares currently serves as the chair of Region IX of the National Black Caucus of State Legislators (NBCSL). Tavares is a graduate of Eastmoor High School, and attended Spelman College in Atlanta, Georgia and The Ohio State University.

## OCMC Legislative Members



From: Springfield  
Member: 2013

### **Chris Widener**

State Senator Chris Widener represents the 10th Senate District, which includes Madison, Clark and Greene counties. Before coming to the Senate, he served three terms as a State Representative. Senator Widener is Senate President Pro Tempore and serves as a member of various committees, including as Vice-Chair of the Rules Committee.

Senator Widener was raised on a farm, which his family continues to operate today. He earned a bachelor's degree in architecture from the University of Cincinnati before working at Wright Patterson Air Force Base as an architect and the base's first full-time historic preservation officer. Later, he founded his own architectural firm in Springfield. He was also elected to the Mad River-Greene Local Board of Education prior to his service in the Ohio House.

Outside of Columbus, Senator Widener is active in several state and local organizations. He is also a member of High Street United Methodist Church.

Senator Widener has been married to Sally, a dental hygienist, for more than 20 years. They live in Springfield with their two children.

## OCMC Public Members



From: Cincinnati  
Member: 2012-2017

### **Janet Gilligan Abaray**

Janet Abaray is an attorney and managing shareholder of the Ohio office of Burg Simpson Eldredge Hersh Jardine, P.C. in Cincinnati, Ohio, where she practices complex civil litigation.

Abaray, a member of the Ohio Bar since 1982, has served as a national lead and liaison counsel in numerous multidistrict litigations involving medical products; appointed lead counsel in class actions involving contract disputes; has acted as trial counsel in major class actions and pharmaceutical litigations; has argued before the Ohio Supreme Court concerning the constitutionality of tort reform; and has litigated significant issues concerning employment law, federal preemption, admissibility of expert testimony, arbitration clauses, and class action certification.

She graduated Phi Beta Kappa and summa cum laude from the University of Cincinnati McMicken College of Arts and Sciences, with high departmental honors in English literature. She graduated Order of the Coif from the University of Cincinnati College of Law.



From: Columbus  
Member: 2012-2017

### **Herb Asher**

Dr. Herb Asher is professor emeritus of political science at the Ohio State University, where he currently serves as faculty adviser to several student organizations, including the Undergraduate Student Government, the College Democrats, and two fraternities. He also serves on the Executive Committee and Board of Trustees of Hillel.

Dr. Asher has previously served as counselor to the university president, senior vice president for government affairs, special assistant to the university president for government relations, and founding director of the John Glenn Institute for Public Service and Public Policy at Ohio State University. He has authored numerous books and articles.

Dr. Asher formerly served as faculty adviser to the College Republicans at Ohio State University. He is a former member and chair of the Ohio Ethics Commission; a former member of the Board of Trustees of Community Research Partners; a former member of the Board of Trustees of the Columbus Metropolitan Club; and former president of the Ohio State University Faculty Club.

Asher earned his Bachelor of Science degree in mathematics from Bucknell University in Pennsylvania and a Master of Arts degree and a Ph.D. in political science from the University of Michigan.

## OCMC Public Members



From: Ashland  
Member: 2012-2017

### **Roger L. Beckett**

Roger L. Beckett is Executive Director of the Ashbrook Center at Ashland University, where he has worked for the past 15 years to develop programs for teachers across America about constitutional self-government.

Beckett was appointed to the Ohio Humanities Council by the Governor in 2007 and was a part of the 179<sup>th</sup> Airlift Wing Committee, a Mansfield, Ohio community committee that successfully saved the base from closing during the Pentagon's Base Realignment and Closing process in 2004.

Beckett received his bachelor's degree from Ashland University and master's degree from Ohio State University.



From: Shaker Heights  
Member: 2012-2017

### **Karla L. Bell**

Karla Bell works in the chambers of Judge David Dowd, a federal judge who sits in the Northern District of Ohio.

After 13 years of private practice, first as an associate at Gibson, Dunn & Crutcher in Los Angeles, and then as a partner at McKittrick, Jackson, DeMarco & Peckenpaugh in Newport Beach, Bell retired from practice and began an active volunteer career, serving as one of the founding members of Pro-Choice Orange County, a bi-partisan PAC. She also taught constitutional law, first at Chapman University in Orange, California and then at Cleveland State University. For seven years Bell was a professor at Case Western University School of Law, where she headed the Appellate Practice program, which focused on constitutional law, and effective written and oral advocacy. She has been a regular speaker at Continuing Legal Education seminars hosted by the Northeast Chapter of the American Constitution Society.

Bell graduated cum laude, with honors in social studies from Wesleyan University in Connecticut and received her law degree from University of Chicago Law School.

She is the mother/step-mother of five children.

## OCMC Public Members



From: Upper Arlington  
Member: 2012-2017

### **Paula Brooks**

Paula Brooks is a Franklin County Commissioner and ninth-generation Ohioan and attorney. She also currently leads a national task force on International Economic Development for the National Association of Counties and is its Chair of the Energy/Renewables Subcommittee.

Her former positions include: Special Assistant to the Ohio Attorney General, an antitrust and charitable fraud investigator, Director of the Ohio Attorney General's Women's Law Project, Chief Counsel for the Ohio Department of Liquor Control, Assistant Director of the Department of Administrative Services, and partner in a private law practice. Prior to her election in 2004 to the Franklin County Board of Commissioners, she was Vice Mayor and Council Member in Upper Arlington.

She received her law degree from Capital Law School.



From: Upper Arlington  
Member: 2012-2017

### **Douglas R. Cole**

Douglas R. Cole is a named partner at Organ Cole + Stock, a Columbus-based litigation boutique that he formed with two other former Jones Day partners in 2011.

Before starting his own firm, he was a partner at Jones Day's Columbus office where he participated in the firm's appellate and intellectual property practices. He joined Jones Day after serving as Ohio's State Solicitor from 2003 through 2006. As State Solicitor, he was Ohio's chief appellate attorney. He has also served as a tenure-track law professor at the Ohio State University Moritz College of Law. He started his career as a clerk to the Honorable Frank H. Easterbrook, United States Court of Appeals for the Seventh Circuit, and then became an associate at Kirkland & Ellis, a Chicago-based law firm. He has nearly 20 years of litigation experience in complex civil matters. He has argued five cases in the United States Supreme Court and federal circuit courts of appeal, and has appeared in state and federal trial courts across the country. He has litigated cases in a wide variety of subject-matter areas including, but not limited to, intellectual property, antitrust law, the First Amendment, statutory interpretation, the dormant Commerce Clause, and various provisions of the Ohio Constitution.

Cole frequently speaks and writes on subjects including the U. S. Supreme Court, intellectual property trends, and security law. He is active in the Ohio State Bar Association, having served on the board of editors for the Ohio State Bar Journal.

## OCMC Public Members



From: Reynoldsburg  
Member: 2012-2017

### **Jo Ann Davidson**

Jo Ann Davidson currently serves as Chair of the Ohio Casino Control Commission. In addition, she has her own consulting group, JAD and Associates.

She had a distinguished career in the Ohio House of Representatives, serving in leadership and eventually becoming Ohio's first woman Speaker of the House (1995-2000). Davidson also served as Minority Leader and was recognized for her expertise on the state budget, economic development, local government, and education issues. Davidson's local government public services included 10 years as a member of Reynoldsburg City Council and service as Clerk for Truro Township. Davidson also worked as Vice President of Special Programs for the Ohio Chamber of Commerce prior to 1994.

She is a member of the Board of Trustees for the University of Findlay and Franklin University and is a former member of the Ohio State University Board of Trustees.

She holds honorary degrees from Ohio University, Ohio State University, Franklin University, Capital University, and the University of Findlay.



From: Cincinnati  
Member: 2012-2017

### **Patrick F. Fischer**

Justice Patrick F. Fischer began his six-year term on the Supreme Court of Ohio on January 1, 2017. Previously, he served on the First District Court of Appeals in Hamilton County. He has also served on the boards of the Ohio Lawyers Assistance Program and the Ohio State Bar Foundation.

He began his legal career with a clerkship for U.S. District Court Judge William Bertelsman, and in 1987 he began working for the law firm of Keating Muething & Klekamp in the trial department. Just four years later, he became a partner at Keating Muething & Klekamp.

He has served on the OSBA's Board of Governors, chaired its Budget and Headquarters Committee, and served on numerous other OSBA committees and Task Forces including those on Legal Education and Bar-Foundation Relations. He was also elected by his peers to serve as president of the Cincinnati Bar Association, and he chaired two of its committees. He also served two terms on the Ohio Supreme Court's Commission on Professionalism, including serving as its vice chair.

He is a graduate of Harvard Law School.

## OCMC Public Members



From: Grandview Heights  
Member: 2012-2014

### **Judith L. French**

Justice Judi French became the 155th justice of the Ohio Supreme Court in January of 2013. She was appointed to the Supreme Court after eight years on the Tenth District Court of Appeals in Franklin County, which hears appeals from Franklin County courts and state administrative agencies.

Prior to joining the bench, she served as chief legal counsel to Governor Taft and as chief counsel and section chief under Attorney General Betty Montgomery. During her time in the attorney general's office, she argued two cases before the United States Supreme Court, including a landmark case concerning school choice.

She began her state service in 1993 as deputy director for legal affairs at the Ohio Environmental Protection Agency. Prior to that time, she was corporate counsel at Steelcase Inc. in Grand Rapids, Michigan, and an associate at the Columbus law firm of Porter, Wright, Morris & Arthur, where she practiced environmental law.

Justice French earned a B.A. in Political Science, an M.A. in History, and a J.D. (with honors), all from The Ohio State University. She currently serves as a member of the Moritz College of Law National Council.



From: Akron  
Member: 2012-2017

### **Edward L. Gilbert**

Edward L. Gilbert is presently practicing law in Akron, Ohio at Edward L. Gilbert Co., L.P.A. His practice focuses on civil rights litigation and constitutional law violations.

Gilbert has been a principal in the law firms of Parns, Purnell, Stubbs, & Gilbert and Slater, Zurz & Gilbert. He has more than 50 million dollars in verdicts for civil rights and constitutional law violations.

He is the President of the Akron-Canton Barristers Association, a group of approximately 75 African American attorneys in Stark and Summit Counties. He is a member of the Akron and Ohio Bar Associations and serves on the NAACP Legal Redress Committee covering five Northeastern Ohio counties.

Gilbert earned his degree from Wooster College having received the Schwartz Award for general excellence in college work. He earned his law degree from the University of Akron School of Law where he served as President of the Black American Law Students of America, Akron Branch.

## OCMC Public Members



From: Columbus  
Member: 2014-2017

### **Jeff Jacobson**

Jeff Jacobson works as a strategist, consultant and policy expert for a range of business and non-profit clients. His primary focus is on helping his clients better understand and influence state policy making in Ohio.

He served in the Ohio House and Senate from 1992 to 2008, culminating as Senate President Pro Tempore. In the Legislature, he played a major role in crafting the biennial state budget, with a concentration in school funding. During his sixteen years in public service, he enacted legislation on topics as diverse as education reform; tax policy; criminal justice; nursing home reimbursement formulas; election and campaign finance law; the abolition of predatory mortgage lending and the regulation of payday lending; collective bargaining and prevailing wage law; and electric utility re-regulation.

He graduated cum laude with a bachelor's degree from Yale University and received his J.D. summa cum laude from the University of Dayton.



From: Perrysburg  
Member: 2012-2017

### **Charles F. Kurfess**

Charles F. Kurfess served in the U.S. Army Counter Intelligence Corp in the Far East during the Korean Conflict and operated a general law practice for 33 years in Bowling Green. His long career as a public servant included two terms as a Wood County Common Pleas Judge and 11 terms as a state representative, during three of which he served as Speaker of the House.

He has been active nationally in organizations supporting the work of state legislatures, having been one of the founders of the National Council of State Legislatures and serving on the Governing Board of the Executive Committee of the Council of State Governments.

He serves on several committees and task forces for the Ohio Judicial Conference, the Ohio Supreme Court, and the Ohio State Bar Association. He was awarded Honorary Life Fellowship by the Ohio State Bar Foundation and Distinguished Alumnus Award from Bowling Green State University, and was appointed by Presidents Nixon and Ford to the Advisory Commission on Intergovernmental Relations.

He is a graduate of Bowling Green State University and the Ohio State University Moritz School of Law.

He is married to former Helyn Rudolph; father to three, grandfather to five, and great-grandfather to one; and a lifelong member of St. John's Lutheran Church in Stony Ridge.

## OCMC Public Members



From: Richfield  
Member: 2012-2015

### **Larry L. Macon**

Rev. Dr. Larry L. Macon, Sr. serves as the Senior Pastor of the Mt. Zion Church of Oakwood Village where a four-decade family focused ministry has led the transformation of the region from an agricultural enclave to a medical and technology based community.

He holds a Doctor in Religion and an M.A. from Ashland University, a Doctor of Divinity from St. Thomas College, and a B.A. from Cleveland State University.

Dr. Macon has been an Assistant Professor of Religion at Cleveland State University since 1995. He is the author of several recent books and articles. He is a former member of the Association for Study of African American Life and History, Presiding Bishop of the Ohio Ecumenical Alliance of International Fellowship, Chairman and Past President of the United Pastors in Mission.

He is the recipient of a number of awards, but believes his greatest accomplishments include his loving wife, his dedicated sons that followed their calling into the ministry, and the beautiful grandchildren that renewed his support for educational opportunities for every child.



From: Upper Arlington  
Member: 2012-2017

### **Frederick E. Mills**

Frederick E. Mills is a partner in the Vorys Columbus office and the leader of the firm's government relations group. He provides counsel on legislative matters and governmental relations to Ohio, regional, national, and international clients. He represents clients in many industries, including the retail, restaurant, technology, telecommunications, chemical and energy sectors, in front of the General Assembly, local jurisdictions and administrative agencies.

His career highlights include serving as the Chief of Staff, Clerk and majority Counsel for the Ohio House of Representatives; Ohio Superintendent of Banks; and a legislative assistant to former Ohio Governor James Rhodes.

He received his bachelor's degree from Ohio State University and his J.D. from Capital University Law School.

He is a member of the Columbus Bar Association.

## OCMC Public Members



From: Hudson  
Member: 2012-2017

### **Dennis P. Mulvihill**

Dennis Mulvihill is a partner in the firm Wright & Schulte, LLP. Mulvihill's practice is primarily in the areas of product liability, medical malpractice, motor vehicle accidents and workplace injuries. Dennis has been named an Ohio Super Lawyer every year since 2008, honoring the top five percent of all lawyers in Ohio; and prior to that, was named a Rising Star by Super Lawyers, honoring the best young lawyers in the state. These recognitions are based on the results of statewide surveys of lawyers and peer evaluation.

In 2010-11 he was the President of the Ohio Association for Justice, the only statewide association of trial attorneys who devote their practices to representing people who have been injured by the negligence of others. He has been a member of the OAJ Board of Trustees since 1999.

In 2014, Dennis was named a Fellow in the International Society of Barristers, an organization that recognizes the best advocates from each era, and whose mission is to support the right to trial by jury; improve advocacy; abolish animosity between lawyers representing plaintiffs and defendants; encourage ethical conduct; and protect the rights of citizens, the independence of the judiciary, and the integrity of the bar.



From: Columbus  
Member: 2012-2017

### **Chad A. Readler**

Chad Readler is an appellate and trial litigation partner in the law firm Jones Day. Prior to joining Jones Day, he acted as law clerk to the Honorable Alan E. Norris, United States Court of Appeals for the Sixth Circuit.

In 2009, he was named a recipient of the American Marshall Memorial Fellowship. He traveled to Europe for three weeks to meet with European political, business and civic leaders. He has also traveled to Nairobi, Kenya to participate in a Lawyers Without Borders program. In Ohio, he was twice appointed to chair the Ohio Supreme Court's Commission on the Thomas J. Moyer Ohio Judicial Center, home of the Ohio Supreme Court.

He is a founding board member and past board chair of the Crittenton Community School, a Columbus-based charter school specializing in educating challenged students in grades 6-9. He is also an active member of the United Way of Central Ohio, which in 2011 awarded him the Robert S. Crane Jr. Young Philanthropist Award.

He earned his undergraduate and law degrees with honors from the University of Michigan.

## OCMC Public Members



From: Westerville  
Member: 2012-2013

### **Joseph P. Rugola**

Joseph P. Rugola has served as the Executive Director of the Ohio Association of Public School Employees (OAPSE) since 1988. Prior to his appointment as Executive Director, Joe served as the union's Field Director and as a Field Representative. Under his leadership, OAPSE has grown from just over 25,000 members to more than 34,000.

Since 1988, Joe has served as an International Vice President of AFSCME. Joe served as Chairman of the Ohio AFL-CIO's Task Force on Political Action, where he created the "Take Back Ohio" program. He is a Vice President of the Ohio AFL-CIO, and in April of 2007 was elected as the federation President, a position he held until 2011.

Joe is an at-large member of the Democratic National Committee and an elected member of the Ohio Democratic Party State Executive Committee from the 3rd District.

Joe is recognized in the trade union movement and among educators as one of Ohio's most vocal and effective advocates for working families and strong public education.

He is a graduate of The Ohio State University, earning his degree in Political Science in 1972.



From: Dayton  
Member: 2012-2017

### **Richard B. Saphire**

Richard B. Saphire is a professor at the University of Dayton where his primary areas include: United States and Ohio Constitutional Law; civil rights; complex litigation; professional responsibility; judicial administration; homelessness and the law; voting rights; human rights; and law and religion.

He received his Bachelor of Arts degree from the Ohio State University, his law degree from Salmon P. Chase College of Law (Northern Kentucky University), and a Master of Laws degree from Harvard Law School.

He and his wife Patricia have been married for 41 years. They have two sons, Daniel and Douglas.

## OCMC Public Members

### **Robert A. Taft**



From: Springfield  
Member: 2012-2017

Bob Taft is currently a Distinguished Research Associate with the University of Dayton, lecturing in a number of different classes, teaching a political science course on the U.S. Congress and working with the School of Education on special projects.

His first job in government was with the Bureau of the Budget in the State of Illinois. He has served as an elected official in Ohio for 30 years, as a member of the state legislature, a county commissioner, Ohio Secretary of State and, most recently, as Governor of Ohio. In his role as Governor, he focused on improving schools, reforming Ohio's tax system, attracting advanced, high paying jobs and helping communities clean up polluted properties and provide better recreational opportunities for their citizens.

He received his master's degree in government from Princeton University and his law degree from the University of Cincinnati.

### **Pierrette Talley**



From: Columbus  
Member: 2013-2017

Pierrette Talley is the first woman to hold one of the two top offices in the history of the Ohio AFL-CIO being elected to the position of Secretary-Treasurer in 2002 and re-elected in 2006.

Her career began with organized labor in 1980 where she worked as an office administrator for AFSCME Ohio Council 8. She held several positions with AFSCME including working as the union's political and legislative director in Michigan from 1994 to 1999. In 1999 the national AFL-CIO appointed Talley to the position of Ohio State Director. As Secretary-Treasurer she is the administrative officer of the Ohio AFL-CIO.

She holds dual Bachelor of Arts degrees in communications and political science from the University of Toledo.

She is a member of Pinewood Tabernacle Church in Toledo and is married to Cornell. They have a blended family of four children, and five grandchildren.

## OCMC Public Members



From: Columbus  
Member: 2012-2017

### **Kathleen M. Trafford**

Kathleen M. Trafford is a Partner at the Law Firm of Porter Wright Morris & Arthur LLP and serves as Chair of the Firm's Appellate Practice Group.

Based in Columbus, she concentrates her practice in the area of governmental and regulatory litigation and constitutional law. She represents private parties in disputes with governmental agencies and also serves as special counsel to a number of state and local government agencies. She handles cases involving constitutional challenges to state and local laws or orders, First Amendment claims, rate making and price discrimination, licensing disputes, trademarks, professional ethics, public records, injunctions, and special writs in the Ohio Supreme Court. She is a Fellow in the American College of Trial Lawyers.

Prior to joining the firm in 1988, she was Deputy Chief Counsel to the Ohio Attorney General. She is a past President of the Columbus Bar Association, and served as Co-Chair of the American Constitutional Society Columbus Lawyer's Chapter.

She graduated cum laude from Capital University Law School and also holds a Master of Arts degree from Kent State University.



From: Toledo  
Member: 2014-2017

### **Mark Wagoner**

Mark Wagoner is a partner in the litigation practice group at Shumaker, Loop & Kendrick, LLP.

He is a former member of the Ohio General Assembly where he served for eight years. He served as the State Senator Ohio's 2nd Senate District, representing northwest Ohio. He was the Chairman of the Judiciary Committee, Vice-Chairman of the Senate Finance Committee, a member of the Senate Rules and Reference Committee; a member of the State of Ohio Controlling Board, Chairman of the Auto Industry Task Force, Chairman of the Senate Select Committee on Video Lottery Terminals in Ohio, and served as Majority Whip. During his term in the Senate, he also served on the OCMC as a legislative member.

Prior to his tenure in the Ohio Senate, he was State Representative of the 46th House District, where he was a member of the House Finance Committee, Public Utilities Committee, and Financial Institutions Committee.

He is a cum laude graduate of Georgetown University and the Ohio State University College of Law.

## OCMC Public Members



From: Toledo  
Member: 2012-2014

### **Richard S. Walinski**

Richard is the third generation of the Walinski family, which has been practicing law in Toledo since 1908. He practices now with the firm of Thacker & Martinsek. Twice in his 43 years of practice as a trial lawyer, Richard took sabbaticals to serve as Chief Counsel – the top legal advisor – to two of Ohio’s attorneys general: Democratic Attorney General William J. Brown and Republican Attorney General Betty D. Montgomery. He is the only person in Ohio to have been appointed as Chief Counsel by attorneys general from both major political parties.

Richard served as a Consultant to the General Assembly’s Select Committee on Evidence (1979-80). He has also served two full terms on Supreme Court’s Rules Advisory Committee (now known as the Commission on the Rules of Practice & Procedure), where he served as Chairman of the Committee and also as Chairman of the Evidence Rules Subcommittee. Richard received a Bachelor of Arts degree in philosophy from The University of Toledo.

Before entering law school, he did graduate work in philosophy at Duquesne University. Richard received a law degree from The University of Toledo College of Law, where he was the founding Editor-in-Chief of The University of Toledo Law Review. He is a member of the Order of the Coif and a life member of the American Society of Writers on Legal Subjects. Richard and his wife, Shelley, make their home in Toledo, Ohio.

## OCMC Staff



Interim Executive Dir.  
& Counsel to the  
Commission

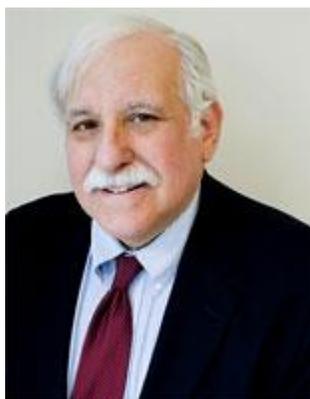
### **Shari L. O'Neill**

Shari O'Neill is Interim Executive Director and Counsel to the Ohio Constitutional Modernization Commission where she conducts legal research, provides written memoranda on issues before the Commission, and supervises the work of student interns.

Prior to joining the Commission, O'Neill served as a judicial law clerk at the Ohio Twelfth and Tenth District Courts of Appeals and research counsel for a high-profile Columbus litigation firm.

She is a graduate of the University of Cincinnati College of Law, and also has Bachelor of Arts and Master of Arts degrees in English Literature from UC.

Ms. O'Neill is a native of Cincinnati and lives in Gahanna with her husband and two sons.



Senior Policy Advisor

### **Steven H. Steinglass**

Steven H. Steinglass is the Senior Policy Advisor to the Ohio Constitutional Modernization Commission where he provides technical and research assistance to the Commission on the Ohio Constitution.

Before assuming his duties, Steinglass served as the Dean and Professor of Law at the Cleveland Marshall College of Law in Cleveland.

He is a graduate of Columbia University School of Law and holds a Bachelor of Science degree from the University of Pennsylvania, Wharton School of Finance and Commerce.

Steinglass is a native of New York City and resides with his wife in Cleveland Heights.

## OCMC Staff

### Former Staff



Executive Director

#### **Steven C. Hollon**

Steven C. Hollon served as Executive Director of the Ohio Constitutional Modernization Commission until February 2017 where he provided senior leadership to the staff and Commission co-chairs regarding the activity of the Commission.

Previously, Hollon served as the Administrative Director of the Ohio Supreme Court for fifteen years and the Administrator for the Twelfth and Second District Courts of Appeals.

He holds his law degree from Ohio Northern University, and has a Bachelor of Arts degree from Muskingum College and a Master of Science degree from Miami University.

He is a native of Middletown and resides with his wife in Lebanon.



Communications Director

#### **Shaunte Russell**

Shaunte Russell worked as the Communications Director for the Ohio Constitutional Modernization Commission where she was responsible for educational and informational material and the coordination of public relations programs regarding Commission activities.

Russell was previously the manager of conference and event services at Central State University. Her background includes experience in communications, media relations, websites, social media, and event management.

She holds a Bachelor of Arts degree in Communications and English from the University of Cincinnati, and a Masters of Arts degree in English: Composition and Rhetoric from Wright State University.

Ms. Russell is a native of Dayton and lives in Columbus.

## OCMC Staff



Administrative Assistant

### **Jennie Long**

Jennie Long was the Administrative Assistant to the Ohio Constitutional Modernization Commission where she assisted in the preparation of meeting materials for Commission meetings and performed office administrative tasks.

Prior to joining the Commission, Long served as a program specialist for the Ohio Judicial Conference, and worked for the Association of College and University Housing Officers, Ohio Job and Family Services Directors' Association, and the County Commissioners Association of Ohio.

She has studied at Hocking College, the Ohio State University, and Capital University.

Ms. Long is a native of Athens County and resides, with her husband, in Bexley.

# **Appendix 4**

## **Ohio Constitutional Modernization Commission**

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### **Minutes of the Commission**

*The Ohio Senate*  
Tom Niehaus, President  
Eric Kearney, Minority Leader



*The Ohio House of  
Representatives*  
Bill Batchelder, Speaker  
Armond Budish, Minority Leader

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES

#### December 28, 2011 - Organizational Meeting

Speaker William Batchelder called organizational meeting of the Ohio Constitutional Modernization Commission meeting to order at 3:05PM. He proceeded to ask the legislative members of the Commission to introduce themselves; present were Rep. Kathleen Clyde, Rep. Dennis Murray, Rep. Lynn Slaby, Rep. Vernon Sykes, Sen. Larry Obhof, Sen. Charleta Tavares, Sen. Michael Skindell, and Sen. Mark Wagoner.

Speaker Batchelder asked for a motion with regards to the selection of the two co-chairs by the legislative members of the Commission. Sen. Obhof moved to nominate Speaker Batchelder a co-chair; the motion was seconded. Speaker Batchelder asked for a motion with regards to the second co-chair. Sen. Tavares moved to nominate Rep. Vernon Sykes as co-chair; the motion was seconded. The roll was called and Speaker Batchelder and Rep. Sykes were elected co-chairs by a vote of 9-0.

Speaker Batchelder noted that it had been recommended that the Commission adopt interim rules of order such as Roberts, Masons, or Hughes under which to operate until all seats on the Commission were filled. Chairman Sykes moved that the Commission operate under Roberts Rules of Order. Without objection, the motion to operate under Robert's Rules of Order until the full Commission was appointed was adopted.

Speaker Batchelder proceeded to provide background on the Commission, noting that under Art. XVI, §3, the Ohio Constitution provides that the question of whether or not to hold a constitutional convention must be put to the voters every 20 years. He noted that in 1972, the Ohio Constitutional Revision Commission was created to conduct a thorough study of the content and structure of the Ohio Constitution in anticipation of the 20-year interval question, and that a number of the Commission's recommendations were put on the ballot and passed by the voters. Speaker Batchelder further noted that, like the previous Commission any recommendations of this body would require two-thirds vote of the membership. He concluded that the work of the present Commission would be the groundwork for and supplement the work of a Constitutional Convention should the voters approve one, but in the absence of a convention it would still provide a forum within which to examine Ohio's Constitution.

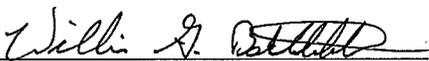
Speaker Batchelder raised the topic of the procedure and timeline for receiving and reviewing resumes for the additional 20 public members of the Commission. He suggested that resumes be sent to the House and Senate Clerks' offices with a deadline of the end of January. Chairman

Sykes moved in the alternative that resumes be jointly submitted to the co-chairs offices and immediately provided to Commission members. Sen. Skindell asked to clarify if Tuesday, January 31, 2011 was the deadline by which resumes must be submitted, to which Speaker Batchelder responded in the affirmative. Hearing no objections, Speaker Batchelder stated that applications for the 20 open public member seats on the commission should be submitted jointly to the Co-chairs offices by January 31, 2011. Sen. Obhof asked if the Commission would be reconvening in March or April to appoint the 20 public members, to which Speaker Batchelder said he anticipated that the Commission would reconvene in mid-February, and that the Co-Chairs would confer on a specific date. Speaker Batchelder said the Commission could work with various public interest groups and associations to publicize the submission process, and asked that Commission members please share their suggestions on such groups with the Commission.

Speaker Batchelder acknowledged the presence of Nancy Rogers, former Dean of the Ohio State University Moritz College of Law, and asked her to speak to the work being done by a Constitutional Modernization Colloquium Steering Committee through the Ohio State University Moritz College of Law. She stated that the Steering Committee was researching the work of the predecessor Commission and similar Commissions from other states, and offered to host a colloquium for the Commission. Rep. Sykes asked if this effort would be provided free to the Commission, to which Professor Rogers responded in the affirmative. Sen. Tavares asked Professor Rogers how the colloquium would be initiated, to which Ms. Rogers responded that while they had originally held three days at the end of January, they wanted to work with the Commission's schedule. Sen. Skindell commented that the colloquium should be timed to benefit all 32 members of the full Commission, not just the legislative members. Rep. Murray suggested that the Steering Committee could provide written materials to the Commission in advance of the colloquium and then hold the colloquium after the full Commission was in place.

Sen. Skindell suggested that the Commission consider choosing co-secretaries for the Commission and requested that detailed minutes be taken.

Speaker Batchelder asked if there was any other business to come before the Commission. Seeing none, the Commission stood adjourned.

  
Speaker William Batchelder  
Co-Chair

  
Rep. Vernon Sykes  
Co-Chair

*The Ohio Senate*  
Tom Niehaus, President  
Eric Kearney, Minority Leader



*The Ohio House of Representatives*  
William G. Batchelder, Speaker  
Armond Budish, Minority Leader

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES February 16, 2012

Speaker William Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 10:10AM.

Speaker Batchelder asked the members to review and approve the minutes from the December 28, 2012 meeting. Senator Skindell moved that the minutes be amended to reflect his attendance at the meeting; the amendment was accepted without objection. Seeing no objections, the minutes as amended were approved.

Co-Chair Sykes proceeded to report on the status of the public member application process. He stated that although the original deadline was set for January 31, 2012, there were concerns that the opportunity to apply for the 20 public member seats was not adequately publicized, and therefore the Co-Chairs had decided to extend the deadline to February 29, 2012. He noted as of that week, over 180 applications had been received by the Commission representing a diverse pool of lawyers, farmers, business entrepreneurs, academics, journalists, and teachers. He stated that the members or the public could obtain a list of the applicants upon request to either co-chair.

Co-Chair Sykes then discussed the colloquium to be held the morning of March 22, 2012 by the Ohio State Moritz College of Law. He invited Professor Nancy Rogers, a member of the Colloquium Planning Committee, to update Commission members on their work and to receive feedback on the structure and content of the upcoming Colloquium. After a brief report from Professor Rogers, Senator Skindell stated that he would like to see the Colloquium address the work of similar commissions in other states as well as the history of the previous Commission.

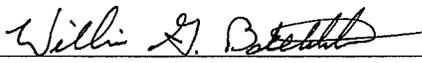
Co-Chair Sykes stated that he would like to make the event open to the general public and to have all of the applicants for the 20 public member seats. Senator Tavares expressed a concern that the non-attendance at the Colloquium by a public member applicant would be seen as prejudicial to that applicant in the selection process. Co-Chair Sykes said that staff could research whether the Ohio Channel could record the Colloquium presentation so it could be viewed later by those not able to attend.

On the topic of a possible location for the Colloquium, Speaker Batchelder suggested the auditorium in the Riffe Center. Senator Skindell noted that the Supreme Court building was another option. Senator Tavares stated that the venue should be centrally located, have ample

parking, and present no issues with access for the public. Rep. Clyde said that it would be helpful if the Colloquium Planning Committee could recommend any reading for the Commission members in advance of the colloquium, to which Professor Rogers stated that they could send advance copies of their research papers. Co-Chair Sykes asked the Commission members if they had any input on topics for the Colloquium. Senator Skindell said that he would like to see some information on the national or historical constitutional commission. Co-Chair Sykes stated that the public member applicants as well as the general public would be invited to the event.

Rep. Murray asked about timing with regards to selection of the public members. Co-Chair Sykes said that he hoped the members could be selected by the middle of March. Senator Obhof and Rep. Slaby stated that they thought the selection of the public members would not take place until after the Colloquium. Senator Tavares noted that the 1970s Commission took a full seven months to impanel the public members. Senator Jones reiterated her concerns that an applicant's absence from the Colloquium not be construed as prejudicial to the selection process, and said that the Commission should handle the selections with sensitivity. Sen. Skindell suggested that the Commission consider setting up a subcommittee with one member from each caucus to formally review the applications. Senator Obhof said he thought the Commission was going to give the legislative members time to review the public member applications, and then reconvene at a date set by the Co-Chairs to discuss the selection process. Co-Chair Sykes stated that upon the close of the application window on February 29<sup>th</sup>, the public member application materials would be made available to each of the legislative members to begin reviewing.

Co-Chair Sykes asked if there was any other business to come before the Commission. Seeing none, the Commission stood adjourned.

  
\_\_\_\_\_  
Speaker William Batchelder  
Co-Chair

  
\_\_\_\_\_  
Rep. Vernon Sykes  
Co-Chair

*The Ohio Senate*

Tom Niehaus, President  
Eric Kearney, Minority Leader



*The Ohio House of  
Representatives*

William G. Batchelder, Speaker  
Armond Budish, Minority Leader

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

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**MINUTES  
September 13, 2012**

Speaker William Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 10:12AM. The following members were present: Speaker Batchelder, Rep. Sykes, Rep. Amstutz, Rep. Clyde, Rep. Huffman, Rep. Murray, Sen. Cafaro, Sen. Obhof, Sen. Skindell, Sen. Tavares, Sen. Wagoner. Staff noted that an excuse letter for Sen. Jones had been received by the Co-Chairs prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the February 12, 2012 meeting and moved that the minutes be adopted; Rep. Sykes seconded the motion. Sen. Skindell requested that the proceedings of the Commission reflect the occurrence of the Ohio Constitutional Modernization Colloquium hosted by the Ohio State University Moritz College of Law on March 22, 2012. Seeing no objections, Speaker Batchelder directed staff to update the Commission records accordingly and noted that the Colloquium materials and video were available on the Commission website. Seeing no objections, the minutes were approved.

Speaker Batchelder noted that the Commission had received over 250 applications for the 20 public member seats on the Commission from many qualified and talented Ohioans across many different disciplines and backgrounds. Rep. Huffman moved that the Commission appoint the following 20 persons as public members of the Commission:

Janet Gilligan Abaray  
Herb Asher  
Roger L. Beckett  
Karla L. Bell  
Paula Brooks  
Douglas R. Cole  
Jo Ann Davidson  
Patrick F. Fischer  
Judith L. French  
Edward L. Gilbert

Charles F. Kurfess  
Larry L. Macon  
Frederick E. Mills  
Dennis P. Mulvihill  
Chad A. Readler  
Joseph P. Rugola  
Richard B. Saphire  
Robert A. Taft  
Kathleen M. Trafford  
Richard S. Walinski

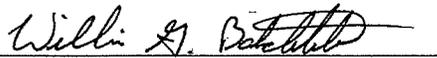
The motion was seconded by Rep. Sykes. Speaker Batchelder asked if there was any discussion on the motion. Senator Obhof stated that after consulting with the Joint Legislative Ethics Commission, he requested pursuant to Senate Rule 47 to be excused from the vote. Rep. Sykes stated that he was proud of the credentials of the applicant pool and stated that the Co-Chairs

would retain the list of other applicants as a pool of potential future appointees since the commission is able to continue making recommendations until July 1, 2021. The roll was called and the Commission public members were appointed to terms ending January 1, 2014 by a vote of 10-0.

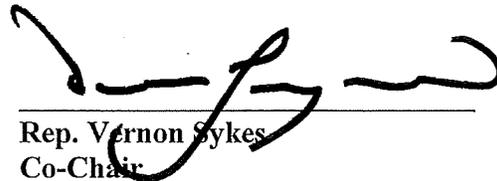
Speaker Batchelder invited Steven Steinglass, Dean Emeritus of the Cleveland-Marshall College of Law, to introduce himself to the Commission, present a roadmap on how the commission should proceed with its work and how he could be of assistance. Professor Steinglass suggested that the Commission allow some time for members to get to know each other, educate members on the successes and failures of the 1970s Constitutional Revision Commission and other state constitutional commissions; and decide upon an organizational structure and initial schedule. In response to a question from Rep. Matt Huffman, Professor Steinglass stated that in the 100 years since the 1912 constitutional convention, 102 out of 150 amendments the General Assembly placed on the ballot were approved, which compared favorably to only 18 out of 67 voter initiated amendments that were ratified. Sen. Tavares thanked Professor Steinglass for his suggestions, and noted that involving the primary and secondary education community in the work of the Commission was important.

Speaker Batchelder next raised the issue of setting the calendar for the remainder of the year. He proposed that the staff survey the Commission members – including the newly appointed public members – on their availability for the remainder of the calendar year so that the Co-chairs could plan the schedule accordingly. Seeing no objections, the staff was directed to proceed with surveying member availability.

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission was adjourned.



Speaker William Batchelder  
Co-Chair



Rep. Vernon Sykes  
Co-Chair

*The Ohio Senate*

Tom Niehaus, President  
Eric Kearney, Minority Leader



*The Ohio House of  
Representatives*

William G. Batchelder, Speaker  
Armond Budish, Minority Leader

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

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**MINUTES  
December 10, 2012**

Speaker William Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 10:10AM and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Rep. Amstutz  
Herb Asher  
Speaker Batchelder  
Roger L. Beckett  
Karla L. Bell  
Paula Brooks  
Sen. Capri Cafaro  
Rep. Kathleen Clyde  
Jo Ann Davidson

Patrick F. Fischer  
Judith L. French  
Edward L. Gilbert  
Rep. Matt Huffman  
Sen. Shannon Jones  
Charles F. Kurfess  
Larry L. Macon  
Frederick E. Mills  
Dennis P. Mulvihill  
Rep. Murray

Sen. Larry Obhof  
Chad A. Readler  
Joseph P. Rugola  
Richard B. Saphire  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Robert A. Taft  
Sen. Charleta B. Tavares  
Kathleen M. Trafford  
Richard S. Walinski

Staff noted that communication regarding anticipated absences had been received from Sen. Wagoner and Douglas Cole by the Co-Chairs prior to the meeting. Speaker Batchelder asked each member to introduce themselves and noted that fuller biographical backgrounds on the members were provided in their folders.

Speaker Batchelder asked the members to review and approve the minutes from the September 13, 2012. Sen. Skindell moved that the minutes be adopted; the motion was seconded and approved without objection.

Speaker Batchelder noted that the next item on the agenda was adoption of the Commission Report that was required under statute to be submitted to the General Assembly by January 1, 2013, and every two years afterwards. He further stated that a draft Report of Proceedings had been circulated to members in advance of the meeting. A motion to approve the report was made and seconded. Without further discussion or objection, the Report of Proceedings by adopted.

The Commission next heard a presentation by Nancy Rogers and Steven Steinglass, members of the OSU Colloquium Planning Committee, on the recommendations from the March 22, 2012 Colloquium.

The Commission then discussed adoption of a default monthly meeting date so that members could plan their calendars accordingly for the coming year. Speaker Kurfess stated that the Commission members should spend some time educating themselves on the lessons of past commissions. After additional discussion, a motion was made and seconded to reserve the second Thursday of every month for meetings, with 10AM committee meetings and 2PM full Commission meetings, subject to confirmation or adjustment as need by the Co-chairs. Without further discussion or objection, the default meeting date was adopted.

Speaker Batchelder then asked the Commission members for feedback on the establishment of a temporary working group on organization and structure to generate recommendations to the full Commission, using the Colloquium report as a starting place. Members discussed whether one or several working groups should be created and raised staffing levels, budget, organization, committee structure, temporary consultants, and rules of procedure as possible topics for the working group(s) to review. Co-Chair Sykes suggested that a single working group begin reviewing administrative and organization matters first and that members convey their ideas on substantive topics for the Commission to consider to the Co-chairs to compile. After additional discussion, Sen. Skindell motioned that 8 members – four named by each Co-Chair - be designated to comprise with working group, and that members contact either Co-Chair with their interest in serving. The motion was seconded and approved without objection.

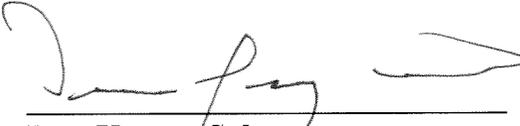
The Commission then discussed authorizing the legislative members of the Commission to engage in advocate on the Commission's budget interests with the legislature and the Commission as the budget process moved forward. A motion was made and seconded to designate Sen. Tavares, Sen. Obhof, Speaker Batchelder, and Rep. Sykes as the point persons in their respective caucuses for this purpose.

The question was raised whether it was appropriate for Commission members to discuss Commission matters and activities with the media and public. Co-Chair Sykes suggested that members were free to discuss matters on an individual basis, but should be clear they are not speaking on behalf of the Commission.

Rep. Sykes noted that the Commission website was being revised to have a form that could be used by the public to submit ideas and feedback to the Commission website, which could be compiled and shared with the Commission.

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission was adjourned.

  
\_\_\_\_\_  
**Speaker William Batchelder**  
**Co-Chair**

  
\_\_\_\_\_  
**Rep. Vernon Sykes**  
**Co-Chair**

*The Ohio Senate*  
Tom Niehaus, President  
Eric Kearney, Minority Leader



*The Ohio House of  
Representatives*  
William G. Batchelder, Speaker  
Armond Budish, Minority Leader

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES February 14, 2013

Speaker William Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 2:10pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Rep. Amstutz  
Herb Asher  
Speaker Batchelder  
Roger L. Beckett  
Karla L. Bell  
Paula Brooks  
Douglas Cole  
Rep. Kathleen Clyde  
Jo Ann Davidson

Patrick F. Fischer  
Judith L. French  
Rep. Matt Huffman  
Charles F. Kurfess  
Larry L. Macon  
Frederick E. Mills  
Dennis P. Mulvihill  
Rep. Murray  
Sen. Larry Obhof  
Chad A. Readler

Joseph P. Rugola  
Richard B. Saphire  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Robert A. Taft  
Sen. Charleta B. Tavares  
Kathleen M. Trafford  
Richard S. Walinski

Staff noted that communication regarding anticipated absences had been received from Sen. Cafaro and Edward Gilbert by the Co-Chairs prior to the meeting. Speaker Batchelder noted the resignation of Senator Jones from the Commission and the appointment of President Keith Faber. The Senate also informed the Commission that former Senator Wagoner had been replaced on the Commission by Senator Chris Widener.

Speaker Batchelder asked the members to review and approve the minutes from the September 13, 2012. Senator Tavares asked for the initial B to be added to her name. Sen. Skindell moved that the minutes be adopted as amended; the motion was seconded and approved without objection.

Speaker Batchelder noted that the next item on the agenda was the report from the Staffing and Budget group. Speaker Kurfess and Commissioner Brooks gave their report to the Commission. Speaker Kurfess motioned that the recommendations of the Staffing and Budget group be adopted, Commissioner Brooks seconded; the motion was approved without objection. The Commission had further discussions on other items from the Staffing and Budget group.

Speaker Batchelder asked the Committee Structure and Topics group to give their report to the Commission. Judge Fischer and Senator Skindell gave an updated report from the document

supplied to the Commissioners with numerous changes. The group will come back with an additional report at the next meeting with specific recommendations on committee structure for the Commission to adopt.

Co-Chair Sykes asked the Public Information and Guidance group to give their report to the Commission. Mr. Readler and Mr. Rugola gave their report to the Commission. Ms. Abaray offered an amendment to the recommendations that there be a central place for public input. Senator Obhof motioned to accept the recommendations as amended, Senator Skindell seconded the motion; the motion was approved without objection.

Co-Chair Sykes asked the Education and Ethics group to give their report to the Commission. Mr. Walinski and Dr. Macon gave their report and discussed incorporating the comments and discussion for the meeting into their recommendations. They will bring new recommendations to the March meeting.

Senator Skindell asked that it be noted in the minutes that the Commission members had presentations from the Joint Legislative Ethics Committee and the Ohio Attorney General's Office.

Co-Chair Sykes asked if there was any further business to come before the Commission. Seeing none, the Commission was adjourned.

  
\_\_\_\_\_  
**Speaker William Batchelder**  
Co-Chair

  
\_\_\_\_\_  
**Rep. Vernon Sykes**  
Co-Chair

*The Ohio Senate*  
Tom Niehaus, President  
Eric Kearney, Minority Leader



*The Ohio House of Representatives*  
William G. Batchelder, Speaker  
Armond Budish, Minority Leader

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES March 14, 2013

Co-Chair Sykes called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 2:16pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Rep. Amstutz  
Herb Asher  
Speaker Batchelder  
Roger L. Beckett  
Paula Brooks  
Rep. Kathleen Clyde  
Jo Ann Davidson  
Sen. Keith Faber  
Patrick F. Fischer

Judith L. French  
Edward Gilbert  
Rep. Matt Huffman  
Larry L. Macon  
Frederick E. Mills  
Dennis P. Mulvihill  
Rep. Murray  
Sen. Larry Obhof  
Chad A. Readler  
Joseph P. Rugola

Richard B. Saphire  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Robert A. Taft  
Sen. Charleta B. Tavares  
Kathleen M. Trafford  
Richard S. Walinski  
Sen. Chris Widener

Staff noted that communication regarding anticipated absences had been received from Senator Cafaro and Karla Bell by the Co-Chairs prior to the meeting.

Co-Chair Sykes asked the members to review and approve the minutes from the February 14, 2013. Senator Skindell moved to accept the minutes and Speaker Davidson seconded the motion. Without objection the minutes from the February meeting were accepted.

Co-Chair Sykes announced that the Co-Chairs had decided to hire Steve Steinglass as the consultant for the Commission. It was noted that the contract for Dean Steinglass will be executed in the coming week and he will be available to assist Commission members with their work.

Co-Chair Sykes asked the Committee Structure and Topics group to give their report to the Commission. Judge Fischer and Senator Skindell gave an updated report that included four standing committees and eight subject matter committees. Each member will serve on one standing committee and two subject matter committees. The recommendation included keeping the ratio of public members to legislative members and to also take into account political party affiliation when the Co-Chairs make the committee assignments. A couple of changes were made to the report and Senator Tavares motioned to accept the report and allow the staff to make the

appropriate changes, Governor Taft seconded the motion. Without objection the revised report of the Committee Structure and Topics group was accepted.

The Co-Chairs requested that each member submit their committee preferences to their offices by 5pm on Friday, March 22<sup>nd</sup>. Each member should include two standing committees and three subject matter committees in their preferences. A memo from the Co-Chairs will indicate where to send the information and will include a form for submitting the preferences.

Co-Chair Sykes asked the Education and Ethics group to give their report to the Commission. Mr. Walinski and Dr. Macon gave their report and suggested an educational session for the members on the morning of April 11<sup>th</sup>. They also suggested that the Commission hold an initial public input session at either the May or June meeting. Several changes were suggested to the rules and Mr. Walinski will incorporate the comments and discussion from the meeting and will bring an updated recommendation to the April meeting.

Mr. Steinglass presented the interim public records policy to the Commission. President Faber suggested that an additional paragraph be added to indicate that this policy does not supersede the policy set for the legislative members by the chamber in which they represent. Senator Tavares moved to accept the public records policy with President Faber's suggested change, Senator Skindell seconded the motion. Without objection the interim public records policy was adopted by the Commission.

Mr. Steinglass presented the interim public records retention schedule to the Commission. President Faber suggested that an additional paragraph be added to indicate that this policy does not supersede the policy set for the legislative members by the chamber in which they represent. Ms. Trafford moved to accept the public records retention schedule with President Faber's suggested change, Mr. Mulvihill seconded the motion. Without objection the interim public records retention schedule was adopted by the Commission.

Co-Chair Sykes indicated that Ohio Government Telecommunications would be willing and able to record, broadcast, and/or stream the Commission meetings in the future. Senator Tavares motioned to send this discussion to the Public Education and Information standing committee, President Faber seconded the motion. Without objection the motion was agreed to.

Co-Chair Sykes asked if there was any further business to come before the Commission. Seeing none, the Commission was adjourned.

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**Speaker William Batchelder**  
**Co-Chair**

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**Rep. Vernon Sykes**  
**Co-Chair**

**Co-Chair**  
*Vernon Sykes, Representative*  
34<sup>th</sup> House District



**Co-Chair**  
*William G. Batchelder, Speaker*  
69<sup>th</sup> House District

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

**MINUTES**  
**April 11, 2013**

Rep. Huffman called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 2:19pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray Rep. Amstutz Herb Asher Speaker Batchelder Roger L. Beckett Karla Bell Paula Brooks Rep. Kathleen Clyde Douglas Cole Sen. Keith Faber	Judith L. French Edward Gilbert Rep. Matt Huffman Charles Kurfess Larry L. Macon Frederick E. Mills Dennis P. Mulvihill Rep. Murray Sen. Larry Obhof Chad A. Readler	Joseph P. Rugola Richard B. Saphire Sen. Michael Skindell Rep. Vernon Sykes Robert A. Taft Sen. Charleta B. Tavares Kathleen M. Trafford Richard S. Walinski Sen. Chris Widener
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Staff noted that communication regarding anticipated absences had been received from Senator Cafaro, Speaker Davidson and Judge Fischer by the Co-Chairs prior to the meeting.

Rep. Huffman asked the members to review and approve the minutes from the March 14, 2013. Mr. Gilbert noted his name was missing and asked the minutes to be updated to reflect his attendance. Mr. Muvihill motioned to accept the minutes with the change and Justice French seconded the motion. Without objection the minutes from the March meeting were approved.

Rep. Huffman asked the Education and Ethics group to give their report to the Commission. Mr. Walinski and Dr. Macon gave their report. Mr. Gilbert objected to the grants and bequests section of the proposed rules. Mr. Walinski stated that this portion was included because the ORC section for the Commission gives this authority. Rep. Amstutz noted that the language in the ORC and the title in the rules did not match and motioned to amend the rules to use the phrase "grants, gifts, bequests and devises" where applicable. The motion was agreed to without objection. Ms. Abaray motioned to add to page 3 point iv that it is required to put on the notice if a vote will be taken at a meeting. Senator Skindell seconded the motion and the motion was accepted without

**Senate Members**

*Keith Faber, President*

*Chris Widener, President*  
*Pro Tempore*

*Larry Obhof, Majority*  
*Whip*

*Charleta B. Tavares*

*Michael J. Skindell*

*Capri S. Cafaro*

**House Members**

*Matt Huffman, Speaker*  
*Pro Tempore*

*Ron Amstutz*

*Kathleen Clyde*

*Dennis Murray*

**Public Members**

*Janet Abaray*

*Herb Asher*

*Roger L. Beckett*

*Karla L. Bell*

*Paula Brooks*

*Douglas R. Cole*

*JoAnn Davidson*

*Patrick F. Fischer*

*Judith L. French*

*Edward L. Gilbert*

*Charles F. Kurfess*

*Larry L. Macon*

*Frederick E. Mills*

*Dennis P. Mulvihill*

*Chad A. Readler*

*Joseph P. Rugola*

*Richard R. Saphire*

*Robert S. Taft*

*Kathleen M. Trafford*

*Richard S. Walinski*

objection. Senator Skindell moved to accept the report as amended and Rep. Huffman seconded the motion. Mr. Gilbert noted his concern with the language but did not object to accepting the report. Without objection the report was accepted as amended and will be sent to the Organization and Administration standing committee for further review and discussion.

Co-Chair Sykes updated the members on the status of the committee assignments and indicated that they would be completed in the next two weeks. The subject matter committees were divided into two groups, the green and gray groups, each member of the Commission will serve on one subject matter committee in each group. This division was done for scheduling purposes.

Co-Chair Sykes called on Dean Steinglass for his report. Dean Steinglass suggested that the morning of May 9<sup>th</sup> be used for meetings of the Standing Committees and recommended inviting the constitutional officers to make a presentation to the Commission at an upcoming meeting. After further review, he recommended the Commission combine the Legislative and Executive Branch Committees and the Education and Local Government Committees to make six subject matter committees instead of eight. Senator Skindell motioned to accept this change and Governor Taft seconded the motion. Without objection the motion was agreed to.

Co-Chair Sykes asked if there was any further business to come before the Commission. Seeing none, the Commission was adjourned.



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**Speaker William Batchelder**  
Co-Chair

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**Rep. Vernon Sykes**  
Co-Chair

**Co-Chair**  
Vernon Sykes, Representative  
34<sup>th</sup> House District



**Co-Chair**  
William G. Batchelder, Speaker  
69<sup>th</sup> House District

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

### MINUTES May 9, 2013

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 2:04pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray	Edward Gilbert	Rep. Vernon Sykes
Rep. Ron Amstutz	Rep. Matt Huffman	Robert A. Taft
Herb Asher	Charles Kurfess	Richard S. Walinski
Speaker William G. Batchelder	Larry L. Macon	
Roger L. Beckett	Dennis P. Mulvihill	
Paula Brooks	Rep. Dennis Murray	
Rep. Kathleen Clyde	Sen. Larry Obhof	
Douglas Cole	Chad A. Readler	
Jo Ann Davidson	Richard B. Saphire	
Sen. Keith Faber	Sen. Michael Skindell	

Staff noted that communication regarding anticipated absences had been received from Senator Cafaro, Judge Fischer, Justice French, Fred Mills, Senator Tavares and Kathleen Trafford by the Co-Chairs prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the April 11, 2013 meeting. Without objection the minutes from the April meeting were approved.

Speaker Batchelder update the members of the Commission on the issue of email addresses for the public members. The Co-Chairs staff are working with LIS on this issue and should have additional updates for the June meeting.

Dean Steinglass updated the Commission on the work he has completed as determined by his contract. He pointed out that he was trying to serve as a resource to the various committees.

Speaker Batchelder recognized Richard Walinski for a report of the Organization and Administration Standing Committee. The committee recommended that the Commission update the interim rules to reflect the

#### Senate Members

Keith Faber, President  
Chris Widener, President  
Pro Tempore  
Larry Obhof, Majority  
Whip  
Charleta B. Tavares  
Michael J. Skindell  
Capri S. Cafaro

#### House Members

Matt Huffman, Speaker  
Pro Tempore  
Ron Amstutz  
Kathleen Clyde  
Dennis Murray

#### Public Members

Janet Abaray  
Herb Asher  
Roger L. Beckett  
Karla L. Bell  
Paula Brooks  
Douglas R. Cole  
JoAnn Davidson  
Patrick F. Fischer  
Judith L. French  
Edward L. Gilbert  
Charles F. Kurfess  
Larry L. Macon  
Frederick E. Mills  
Dennis P. Mulvihill  
Chad A. Readler  
Joseph P. Rugola  
Richard R. Saphire  
Bob Taft  
Kathleen M. Trafford  
Richard S. Walinski

decision made at the April meeting to reduce the number of subject matter committees from eight to six. Without objection the recommendation was adopted.

The committee further suggested that the Commission hire at least three staffers: an Operations Manager, Counsel to the Commission and a Fiscal Officer (if needed). The committee will be meeting again on May 30<sup>th</sup> with the intention of drafting job descriptions for each of these positions and designating job responsibilities. The committee had also discussed having a complete record of the debate and discussion of the Commission and its committees. There are several options and the committee intends to discuss these options and come up with a recommendation for the Commission to consider.

Speaker Batchelder recognized Roger Beckett for an update from the Public Education and Information Standing Committee. The committee met earlier in the morning and discussed at length the Commission website and the changes that will need to be made to update and maintain the website. Mr. Beckett indicated that he will be scheduling a meeting with LIS to discuss the services and what additional services they can provide to the Commission. The committee supports the Co-Chairs intention to invite the constitutional officers to address the entire Commission at future meetings.

The Commission discussed how the subject matter committees would handle inviting individuals and groups to present to the committees, but no official action was taken.

Speaker Batchelder recognized Speaker Davidson who indicated, on behalf of Chairwoman Trafford, that the Coordinating Committee would be meeting before the June meeting to begin its work.

Speaker Batchelder recognized Janet Abaray for a report from the Judicial Branch and Administration of Justice Subject Matter Committee. Ms. Abaray indicated that the committee had an organizational meeting that morning and asked if funds will be made available for the committees to purchase resources and other items.

Speaker Batchelder recognized Dennis Mulvihill for a report of the Constitutional Revisions and Updating Subject Matter Committee. Mr. Mulvihill indicated that the committee met earlier that morning and discussed which groups should be invited to give the committee members a better understanding of the topics assigned to the committee. The committee is planning to gather information from the Ballot Board and the Secretary of State's office. The committee also asked if there would be a process moving forward on inviting groups/individuals to present to the various committees.

Speaker Batchelder recognized Richard Saphire for a report from the Bill of Rights & Voting Subject Matter Committee. Mr. Saphire informed the Commission that the committee had met earlier that day and discussed the importance of research on the judicial interpretations of the

*Co-Chair*  
*Vernon Sykes, Representative*  
*34<sup>th</sup> House District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

### **OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

provisions assigned to the committee. The committee also asked if there would be a uniform procedure for getting information to and from the subject matter committees.

Speaker Batchelder recognized Douglas Cole for a report of the Finance, Taxation & Economic Development Subject Matter Committee. The committee would like to invite various groups to discuss issues of bonding and finance with the committee to so it can ask questions and get different viewpoints on these issues.

Speaker Batchelder recognized Herb Asher, who asked how the Commission sees the committee he chairs, Liaisons with Public Offices Committee, working and whether or not there is overlap with other committees. It was agreed that there may be some overlap and that the Chairs of the Standing Committees should discuss any overlapping issues. Mr. Asher also announced that the Liaisons with Public Offices Standing Committee will meet prior to the June meeting.

Speaker Batchelder recognized Dean Steinglass for his comments on the questions the committee Chairs have been asking. Mr. Steinglass indicated that the Chairs should use the Co-Chairs staff to coordinate the timing of meetings until the Commission hires permanent staff. He suggested that the committees might initially work at inviting groups to educate and provide background information to the committee members on the assigned topics before invitations are extended to various stakeholders. Once that has occurred, the stakeholders could be invited, and the committees could also consider having hearings around the state.

Commissioner Brooks commented that the Commission should have meetings in all parts of the state, not just the population centers.

Speaker Batchelder recognized Chad Readler for a report from the Education, Public Institutions, & Miscellaneous and Local Government Committee. Mr. Readler informed the Commission that the committee had an organizational meeting earlier in the day and discussed the best way to move forward. The committee is considering having presentations made on each topic and would like to start that process at the next meeting in June.

Several members of the Commission agreed that committees should start inviting various groups to make presentations at their June meetings. Speaker Batchelder indicated that the staff would be able to assist with this task.

There was continued discussion of how the subject matter committees should be proceeding and it was suggested that the committees should be objective in deciding who to invite to their meetings. Several members indicated that the committees should be able to run as they see fit as

long as they follow the Commission rules and any other applicable laws. The intended purpose of the fact finding sessions is to invite experts address the committees and provide background information. Advocacy groups will be invited and encouraged to participate at the appropriate time.

Ms. Abaray asked the Co-Chairs about the monetary resources available to the Commission. The staff indicated that the Commission has around \$40,000 left in the budget and the exact figure could be obtained from LSC.

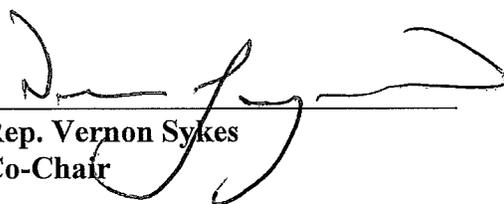
The Commission discussed the public input process and suggestions were made to have meetings around Ohio, to have full Commission meetings open to the public and to encourage participation by interested organizations and individuals.

Co-Chair Sykes asked if there was any further business to come before the Commission. Seeing none, the Commission was adjourned.



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**Speaker William Batchelder**  
**Co-Chair**



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**Rep. Vernon Sykes**  
**Co-Chair**

**Co-Chair**  
Vernon Sykes, Representative  
34<sup>th</sup> House District



**Co-Chair**  
William G. Batchelder, Speaker  
69<sup>th</sup> House District

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**  
**MINUTES**  
**June 13, 2013**

Senate Members

Larry Obhof, Majority  
Whip

Bill Coley

Bob Peterson

Charleta B. Tavares

Michael J. Skindell

Capri S. Cafaro

House Members

Matt Huffman, Speaker  
Pro Tempore

Ron Amstutz

Kathleen Clyde

Dennis Murray

Public Members

Janet Abaray

Herb Asher

Roger L. Beckett

Karla L. Bell

Paula Brooks

Douglas R. Cole

JoAnn Davidson

Patrick F. Fischer

Judith L. French

Edward L. Gilbert

Charles F. Kurfess

Larry L. Macon

Frederick E. Mills

Dennis P. Mulvihill

Chad A. Readler

Joseph P. Rugola

Richard R. Saphire

Bob Taft

Kathleen M. Trafford

Richard S. Walinski

Co-Chair Sykes called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 3:08pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Herb Asher  
Roger L. Beckett  
Paula Brooks  
Rep. Kathleen Clyde  
Douglas Cole  
Sen. Bill Coley  
Jo Ann Davidson  
Patrick Fischer  
Judith French  
Edward Gilbert

Charles Kurfess  
Dennis P. Mulvihill  
Rep. Dennis Murray  
Sen. Larry Obhof  
Sen. Bob Peterson  
Chad A. Readler  
Richard B. Saphire  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Robert A. Taft  
Sen. Charleta B. Tavares  
Richard S. Walinski

Staff noted that communication regarding anticipated absences had been received from Senator Cafaro, Representative Huffman, Representative Amstutz, Larry Macon, and Joseph Rugola by the Co-Chairs prior to the meeting.

Co-Chair Sykes welcomed Senator Coley and Senator Peterson to the Commission replacing President Faber and Senator Widener. Senator Coley will be replacing President Faber on the Commission committees and Senator Peterson will be replacing Senator Widener on the Commission committees.

Co-Sykes asked the members to review and approve the minutes from the May 9, 2013 meeting. Without objection the minutes from the May meeting were approved.

Co-Chair Sykes recognized Janet Abaray for a report from the Judicial Branch and Administration of Justice Committee. Ms. Abaray indicated that the committee had two speakers at their meeting, Judge Mary Jane Trapp and William Weisenberg. Judge Trapp discussed the historic development of the Ohio Constitution and Mr. Weisenberg addressed the proposals put forth by the 1970's Revision Commission. Judge Fischer moved to accept the committee

report and Mr. Gilbert seconded the motion. Without objection, the committee report was accepted.

Co-Chair Sykes recognized Fred Mills for a report from the Legislative Branch and Executive Branch Committee. Mr. Mills indicated that the committee held its first meeting and discussed redistricting/apportionment, term limits and open meetings laws as items for future discussion. Representative Murray moved that the committee report be accepted and Speaker Davidson seconded the motion. Without objection, the committee report was accepted.

Co-Chair Sykes recognized Douglas Cole for a report of the Finance, Taxation & Economic Development Committee. The committee had two speakers present at their meeting, Greg Stype and Kurt Kauffman discussed public debt and public works. Chair Cole indicated that the committee will continue together background information and then proceed to discussing revisions of certain provisions.

Speaker Kurfess suggested bringing forth a “dead wood” amendment to clean up the constitution to avoid house keeping amendments later when controversial amendments are on the ballot. The Commission discussed this idea and it was suggested that an amendment such as this might waste the Commission’s capital and should be discussed again in the future.

Co-Chair Sykes asked the committees to identify the “dead wood” in their committees and submit those ideas to the Co-Chairs. The timing of the proposed amendments to deal with these issues will continue to be discussed.

Mr. Mulvihill moved to accept the report of the Finance, Taxation & Economic Development Committee and Ms. Trafford seconded the motion. Without objection, the committee report was accepted.

Co-Chair Sykes recognized Chad Readler for a report from the Education, Public Institutions, & Miscellaneous and Local Government Committee. Mr. Readler informed the Commission that the committee had three speakers attend their meeting, John Barron of the Ohio Casino Control Commission, Gregory Trout addressing Public Institutions, and Stephen Wilson from Ohio Rehabilitation Services Commission. The Chair indicated that the committee would be discussing local government at the July meeting and education at the August meeting.

Governor Taft moved to accept the committee report and Senator Skindell seconded the motion. Without objection the committee report was accepted.

Co-Chair Sykes recognized Dennis Mulvihill for a report of the Constitutional Revisions and Updating Committee. Mr. Mulvihill indicated that the committee had a presentation from the Attorney General’s office. The committee will be hearing the Secretary of State’s office at the July meeting and then begin the process of hearing from groups on both sides of the initiative and referendum process. The question the committee will be debating is whether or not to leave the system how it is, to make it harder or make it easier.

Justice French moved to accept the report of the Constitutional Revisions & Updating Committee and Dr. Asher seconded the motion. Without objection the committee report was accepted.

Co-Chair Sykes recognized Richard Walinski for a report of the Organization and Administration Committee. The Commission has been given the opportunity to gain offices on the 24<sup>th</sup> floor of the Vern Riffe Center free of charge. Members of the committee toured the space earlier in the day and the office has ample space for the staff the Commission intends to hire. There will be a charge for furnishing the space and DAS will be supplying estimates to the committee. The Commission has time to decide if they would like to take the office space. A decision will be made after the Commission budget is set by the Legislature.

The committee recommended that the Commission authorize the co-Chairs to extend the contract of Steve Steinglass for three months at the same rate and the quarterly cap of \$40,000. The scope of work for Mr. Steinglass would also be updated to include helping to hire staff and other needs as determined by the Commission.

The committee also recommended that the Commission fill five positions: Director, Senior Policy Advisor, Legal Counsel, Communications/Technology Director and Administrative Assistant. It is recommended that the Commission begin its search for an Executive Director. A subcommittee will be created in the future to search for an Executive Director and Rep. Clyde agreed to chair that committee once it is created. The search will commence with a posting of the position in a manner consistent with DAS requirements. The committee will be expanding upon the job description of the Executive Director at the next meeting.

Representative Clyde addressed the issue of LSC serving as the fiscal agent for the Commission and recommended that the Commission be independent and that the Co-Chairs work to correct this issue post haste.

Senator Skindell moved to accept the report of the Organization and Administration Committee and Mr. Gilbert seconded the motion. Without objection, the committee report was accepted.

Ms. Trafford moved to grant the Organization and Administration Committee authority to begin the search for an Executive Director with a salary range of \$85,000-\$140,000. Justice French seconded the motion. The committee hopes to have a recommendation at the September Commission meeting.

The Commission discussed the recommendation and a suggestion was made to combine the Communications Director and the Executive Director. Speaker Kurfess indicated that this position is the first to be filled and the Commission will make adjustments to the plan once the budget is finalized.

Senator Obhof objected to the motion and the staff called the roll. The motion was approved, 19-4 with Senator Obhof, Senator Coley, Senator Peterson and Roger Beckett voting in the negative.

Representative Clyde moved to give the Co-Chairs the authority to ensure the independence of Commission spending, by not being required to have the Chair of LSC sign off on all Commission expenditures. Ms. Trafford seconded the motion.

Representative Clyde informed the Commission that there are two ways to deal with this issue, one would be to have the Co-Chairs ask the Chair of LSC to not require their signature for Commission funds to be expended or take the necessary legislative steps to add a provision to the ORC indicating that no additional sign off is needed other than what the code currently requires.

A concern was raised about whether or not the Commission would need sign off from the State Auditor if option A was utilized to deal with this issue instead of a legislative fix.

Senator Obhof objected to the motion.

Speaker Davidson moved to amend the original motion to have the Co-Chairs discuss how to deal with the fiscal agent issue. Representative Clyde seconded the amendment to the motion. Without objection the amended motion was approved.

Mr. Mulvihill moved to extend Steve Steinglass' contract and Ms. Trafford seconded the motion. The contract would be extended for three months, keeping the current pay rate, adding a quarterly cap of \$40,000 and an update of the job description. Without objection, the motion was agreed to.

Co-Chair Sykes recognized Dr. Asher for a report of the Liaisons with Public Offices Committee. The committee had its first meeting and discussed the role of the committee and the definition of public offices. The committee will work with the Public Education Committee to ensure that public office holders are aware of the Commission's work. Dr. Asher moved to accept the report of the Liaisons with Public Offices Committee and Mr. Cole seconded the motion. Without objection the report of the committee was accepted.

Co-Chair Sykes recognized Roger Beckett for an update from the Public Education and Information Committee. Mr. Beckett indicated that the committee would come to the next Commission meeting with recommendations for regional hearings and a recommendation for obtaining testimony. Although written testimony should be encouraged, anyone should be permitted to testify before a committee or the Commission. Members of the committee will be meeting with the Ohio Historical Society and the Center for Law Related Education to brainstorm items for teachers to use in the classroom regarding the Constitution and the Commission.

Mr. Beckett and Lizz Eisaman from Speaker Batchelder's office met with the Legislative Information Systems (LIS) to discuss the Commission website and the services they can provide

to the Commission. LIS will be capable of providing the services the Commission requires without an additional cost. The committee approved a two step process to update the website. The first step will be obtaining and placing headshots and biographies of the public members of the Commission on the website. Members are asked to submit these items to the Co-Chair's offices.

The committee had three recommendations for the Commission. One, that the Co-Chairs draft an open letter to the public to be posted on the Commission's website and to also be sent to other groups and the press. Two, the Co-Chair record a PSA on the Commission's work for use on the website and possibly public access channels around the state. Three, the Commission approve the video taping of committee meetings and Commission meetings with links placed on the Commission website for the public to view.

Ms. Abaray moved to accept the report of the Public Education and Information Committee and Representative Murray seconded the motion. Without objection, the report of the Committee was accepted.

The Co-Chairs agreed to the first two recommendations and Senator Tavares moved to accept the recommendation of the committee to video tape the committee and commission hearings, with preference given to the subject matter committees over the standing committees and to give the Co-Chairs the authority to negotiate the process for video taping with OGT. Representative Clyde seconded the motion and the motion was accepted without objection.

Co-Chair Sykes recognized Mr. Mulvihill to report on behalf of Ms. Trafford for the Coordinating Committee. The Coordinating Committee will work with the Public Education and Information Committee on regional hearings and other issues that may overlap.

Co-Chair Sykes informed the members that LIS had created email addresses for each public member of the Commission and Representative Murray. Details for accessing the accounts was included in the folders and a memo will be sent out from the Co-Chairs regarding this matter.

Co-Chair Sykes updated the members on the current Commission budget and as of the June 13<sup>th</sup>, there is \$16,200 left. Any money remaining at the end of the fiscal year will roll over into the next fiscal year budget. The fiscal year 2014 and 2015 budget is being debated in conference committee and should be decided by June 30<sup>th</sup>.

Co-Chair Sykes recognized Dean Steinglass for an update on his work for the Commission. Dean Steinglass suggested that the committee meetings for July and August occur on successive days so that more time is available for the meetings.

Co-Chair Sykes asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 4:46pm.



**Speaker William Batchelder**  
**Co-Chair**



**Rep. Vernon Sykes**  
**Co-Chair**

**Co-Chair**  
Vernon Sykes, Representative  
34<sup>th</sup> House District



**Co-Chair**  
William G. Batchelder, Speaker  
69<sup>th</sup> House District

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

**MINUTES**

~~June 13, 2013~~

August 8, 2013

Senate Members

Larry Obhof, Majority  
Whip

Bill Coley

Bob Peterson

Charleta B. Tavares

Michael J. Skindell

Capri S. Cafaro

House Members

Peter Stautberg

Ron Amstutz

Kathleen Clyde

Dennis Murray

Public Members

Janet Abaray

Herb Asher

Roger L. Beckett

Karla L. Bell

Paula Brooks

Douglas R. Cole

JoAnn Davidson

Patrick F. Fischer

Judith L. French

Edward L. Gilbert

Charles F. Kurfess

Larry L. Macon

Frederick E. Mills

Dennis P. Mulvihill

Chad A. Readler

Richard R. Saphire

Bob Taft

Kathleen M. Trafford

Richard S. Walinski

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 2:09pm and asked staff to call the roll. The following members were present:

Herb Asher

Speaker Batchelder

Roger L. Beckett

Rep. Kathleen Clyde

Douglas Cole

Sen. Bill Coley

Jo Ann Davidson

Patrick Fischer

Judith French

Edward Gilbert

Charles Kurfess

Dr. Larry Macon

Fred Mills

Dennis P. Mulvihill

Rep. Dennis Murray

Sen. Larry Obhof

Chad A. Readler

Richard B. Saphire

Sen. Michael Skindell

Rep. Peter Stautberg

Rep. Vernon Sykes

Robert A. Taft

Sen. Charleta B. Tavares

Staff noted that communication regarding anticipated absences had been received from Janet Abaray, Rep. Amstutz, Paula Brooks, Senator Cafaro, Senator Peterson, Bob Taft, and Richard Walinski prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the June 13, 2013 meeting. Senator Tavares moved to correct the minutes adding her name to list of members present. The motion was seconded and the minutes were approved without objection.

Speaker Batchelder welcomed Representative Stautberg to the Commission, filling in for Representative Huffman.

Speaker Batchelder noted the resignation of Commission member Joseph Rugola and indicated that the vacancy would be filled in accordance with the procedure outlined in the Ohio Revised Code. He also announced that Mr. Walinski resigned as the Chair of the Organization and Administration committee and Mr. Cole agreed to take on the additional work load and chair that committee.

Co-Chair Sykes introduced Chief Justice Maureen O'Connor to the Commission and invited her to present to the Commission. Chief Justice O'Connor shared

with the Commission several proposals she made earlier this year, a number of which require a constitutional change in order to implement. The Chief Justice answered questions posed by Commission members.

Speaker Batchelder announced that each committee had been asked to submit a written report from their July meeting to the Commission. Those reports were provided to each member in their folders. Without objection, the written reports of the committees were accepted.

Speaker Batchelder recognized Roger Beckett, Chair of the Public Education and Information Committee, to report on recommendations the committee made to the full Commission. Mr. Beckett discussed the open letter to the public that the committee asks the Co-Chairs to sign and also addressed the PSA script that the committee drafted and requests the Co-Chairs record for use on the website and on public television around the state. The Co-Chairs agreed to review the documents and produce a letter and PSA after that consultation.

Mr. Beckett reviewed the committee's recommendation in regards to hearing locations and committee testimony. Mr. Beckett also brought forth a proposal to revise the current rules of procedure and conduct .

Current Rule:

5(e) Members of the Commission, when speaking outside of the Commission about matters that are or could be within the jurisdiction of the Commission, will speak only for themselves and not for the Commission. In speaking outside Commission, members will not ascribe views or opinions to other individual members of the Commission.

Proposed Rule:

5(e) Members of the Commission, when speaking outside of the Commission about ~~matters that are or could be within the jurisdiction of the Commission~~ possible Commission recommendations, will speak only for themselves and not for the Commission. In speaking outside the Commission, members will not ascribe views or opinions to other individual members of the Commission. Commission members are encouraged to discuss the Commission's Constitutional review and revision process to seek public participation in the Commission's activities.

Speaker Kurfess moved to amend the rule to add “unless given authority by the Commission” in the third line of the rule. Senator Tavares seconded the motion and without objection the motion was agreed to.

Mr. Becket moved to adopt the amended rule and Senator Obhof seconded the motion. Without objection, the motion was accepted. The new rule will read:

Approved Rule:

5(e) Members of the Commission, when speaking outside of the Commission about possible Commission recommendations, will speak only for themselves and not for the Commission, unless authorized by the Commission to do so. In speaking outside the Commission, members will not ascribe views or opinions to other individual members of the Commission. Commission members are encouraged to discuss the Commission's Constitutional review and revision process to seek public participation in the Commission's activities.

Speaker Batchelder recognized Mr. Cole, Chair of the Organization and Administration Committee to discuss recommendations made by the committee to the Commission. The committee unanimously approved a hiring process for the Commission including the Senior Policy Advisor position, the Executive Director and additional Commission staff. Mr. Cole moved to adopt the hiring process as recommended by the committee and Speaker Kurfess seconded the motion. Without objection the motion was accepted.

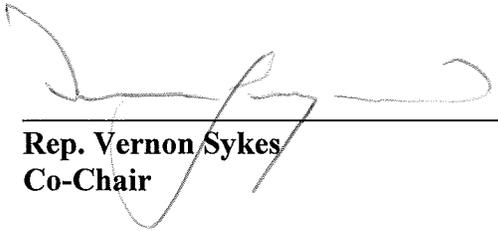
Mr. Cole shared with the Commission a proposed budget that was unanimously approved by the Organization and Administration Committee. He asked members to review the proposed budget and indicated that the Commission would take the issue up at the September meeting.

Speaker Batchelder recognized Dean Steinglass for an update on his work for the Commission. Dean Steinglass indicated that he had been assisting the committee Chairs with acquiring presenters and crafting agendas. He asked the Chairs of the subject matter committees to build on the recommendation to identify obsolete provisions of the constitution and to identify research issues.

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 3:37pm

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**Speaker William Batchelder**  
**Co-Chair**



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**Rep. Vernon Sykes**  
**Co-Chair**

*Co-Chair*  
*Vernon Sykes, Representative*  
*34<sup>th</sup> House District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**  
**MINUTES**  
**September 12, 2013**

*Senate Members*

*Larry Obhof, Majority Whip*

*Bill Coley*

*Bob Peterson*

*Charleta B. Tavares*

*Michael J. Skindell*

*Capri S. Cafaro*

*House Members*

*Peter Stautberg*

*Ron Amstutz*

*Kathleen Clyde*

*Dennis Murray*

*Public Members*

*Janet Abaray*

*Herb Asher*

*Roger L. Beckett*

*Karla L. Bell*

*Paula Brooks*

*Douglas R. Cole*

*JoAnn Davidson*

*Patrick F. Fischer*

*Judith L. French*

*Edward L. Gilbert*

*Charles F. Kurfess*

*Larry L. Macon*

*Frederick E. Mills*

*Dennis P. Mulvihill*

*Chad A. Readler*

*Richard R. Saphire*

*Bob Taft*

*Kathleen M. Trafford*

*Richard S. Walinski*

Representative Huffman called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 2:12pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Rep. Ron Amstutz  
Herb Asher  
Roger L. Beckett  
Paula Brooks  
Rep. Kathleen Clyde  
Douglas Cole  
Jo Ann Davidson  
Edward Gilbert  
Rep. Matt Huffman  
Charles Kurfess  
Dr. Larry Macon

Fred Mills  
Dennis P. Mulvihill  
Rep. Dennis Murray  
Sen. Larry Obhof  
Sen. Bob Peterson  
Chad A. Readler  
Richard B. Saphire  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Robert A. Taft  
Kathleen Trafford  
Richard Walinski

Representative Huffman informed the members of the Commission that Speaker Batchelder has asked him to sit in his place as Co-Chair for the meeting, due to his absence.

Staff noted that communication regarding anticipated absences had been received from Speaker Batchelder, Karla Bell, Senator Cafaro, Senator Coley, Judge Fischer, Justice French, and Senator Tavares prior to the meeting.

Representative Huffman asked the members to review and approve the minutes from the August 10, 2013 meeting. Without objection, the minutes from the August meeting were approved.

Representative Huffman shared with the Commission the recommendation made by Co-Chairs Batchelder and Sykes, to hire Steve Steinglass as the Senior Policy Advisor for the Commission. The Co-Chairs interviewed the candidate per the hiring process adopted by the Commission. Senator Skindell moved to adopt the recommendation of the Co-Chairs and Roger Beckett seconded the motion. Without objection, the recommendation was adopted.

Representative Huffman brought to the attention of the Commission that the Preamble of the Constitution was not assigned to a committee and that it had

been agreed upon that it should be assigned to the Bill of Rights and Voting Committee. Senator Obhof moved to assign the Preamble of the Constitution to the Bill of Rights and Voting Committee and Dennis Mulvihill seconded the motion. Without objection the motion was approved.

Representative Huffman opened the floor for the Commission to discuss the committee meeting schedule. Kathleen Trafford informed the Commission that the Coordinating Committee recommends that the full Commission meet every other month, with the committees meeting every month.

Dennis Mulvihill moved to amend the Commission rules to allow the Co-Chairs to cancel a meeting as needed, without the approval of the full Commission and Richard Walinski seconded the motion. Jo Ann Davidson moved to amend the motion to have the Commission meet every other month and allow the Co-Chairs to call a special meeting as needed with proper legal notice. Without objection the amendment to the motion was approved and without objection the amended motion was approved.

Representative Huffman noted the reports from the committees in the members folders. Without objection, the written reports of the committees were accepted.

Representative Huffman recognized Roger Beckett, Chair of the Public Education and Information Committee, to report on recommendations the committee made to the full Commission. The committee recommends that the Commission wait to hire a communications staffer until the committee has had time to put together a media plan.

Representative Huffman recognized Mr. Cole, Chair of the Organization and Administration Committee to discuss recommendations made by the committee to the Commission. Mr. Cole provided the Commission with an update on the Executive Director search and informed the Commission that 144 people had applied for the position.

Mr. Cole moved to have the Commission accept the office space available in the Vern Riffe Center on the 24<sup>th</sup> floor and Kathleen Trafford seconded the motion. Without objection, the motion was approved.

Mr. Cole moved that the Commission budget, provided for each member in their folders, be approved and Representative Clyde seconded the motion. Without objection, the motion was approved.

Representative Huffman recognized Dean Steinglass for an update on his work for the Commission. Dean Steinglass indicated that he had been working with the law schools to get interns for the Commission and that OSU had assigned him one for this current term. He also reminded the Commission about the key dates in 2014 for getting an issue on the ballot for either the primary or the general election.

Representative Huffman asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 3:03pm



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**Representative Matt Huffman**



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**Rep. Vernon Sykes**  
**Co-Chair**

**Co-Chair**  
*Vernon Sykes, Representative*  
34<sup>th</sup> House District



**Co-Chair**  
*William G. Batchelder, Speaker*  
69<sup>th</sup> House District

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

**MINUTES**

**November 14, 2013**

**Senate Members**

*Larry Obhof, Majority Whip*

*Bill Coley*

*Bob Peterson*

*Charleta B. Tavares*

*Michael J. Skindell*

*Capri S. Cafaro*

**House Members**

*Peter Stautberg*

*Ron Amstutz*

*Kathleen Clyde*

*Dennis Murray*

**Public Members**

*Janet Abaray*

*Herb Asher*

*Roger L. Beckett*

*Karla L. Bell*

*Paula Brooks*

*Douglas R. Cole*

*JoAnn Davidson*

*Patrick F. Fischer*

*Judith L. French*

*Edward L. Gilbert*

*Charles F. Kurfess*

*Larry L. Macon*

*Frederick E. Mills*

*Dennis P. Mulvihill*

*Chad A. Readler*

*Richard R. Sapphire*

*Bob Taft*

*Kathleen M. Trafford*

*Richard S. Walinski*

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 3:14pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Rep. Ron Amstutz  
Herb Asher  
Speaker Batchelder  
Roger L. Beckett  
Rep. Kathleen Clyde  
Douglas Cole  
Jo Ann Davidson  
Judge Fischer  
Justice French  
Edward Gilbert  
Rep. Matt Huffman  
Dr. Larry Macon

Fred Mills  
Dennis P. Mulvihill  
Rep. Dennis Murray  
Sen. Larry Obhof  
Sen. Bob Peterson  
Chad A. Readler  
Richard B. Sapphire  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Bob Taft  
Sen. Tavares

Staff noted that communication regarding anticipated absences had been received from Karla Bell and Kathleen Trafford prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the September 12<sup>th</sup> meeting. Mr. Cole noted a typo and with that correction the minutes from the September meeting were approved without objection.

Speaker Batchelder recognized Co-Chair Sykes for the purpose of a nomination. Representative Sykes nominated Pierette Talley for the open public member seat on the Commission. Senator Tavares seconded the nomination. Speaker Batchelder asked the staff to call the roll for legislative members only. With a vote of 11-0, Ms. Talley was appointed to the Commission.

Speaker Batchelder welcomed Ohio Secretary of State, Jon Husted, to present before the Commission. Secretary Husted shared his thoughts on redistricting and reapportionment and urged the Commission to act quickly on this matter.

Speaker Batchelder indicated that the full Commission may meet on December 12<sup>th</sup> in the afternoon and asked the members to plan accordingly.

Speaker Batchelder noted the reports from the committees were in the members folders. Without objection, the written reports of the committees were accepted.

Speaker Batchelder recognized Roger Beckett, Chair of the Public Education and Information Committee and Dr. Asher, Chair of the Liaisons with Public Offices Committee for a report. The Committees recommended that the Commission merge the two standing committees into one committee. Mr. Beckett asked the Commission to think on this recommendation and indicated that the Commission could take up the recommendation at a later time.

Speaker Batchelder recognized Fred Mills for a report from the Legislative Branch and Executive Branch Committee.

Speaker Batchelder recognized Dennis Mulvihill for a report from the Constitutional Revisions & Updating Committee.

Speaker Batchelder recognized Chad Readler for a report from the Education, Public Institutions, Miscellaneous & Local Government Committee.

Speaker Batchelder recognized Richard Saphire for a report from the Bill of Rights & Voting Committee.

Speaker Batchelder recognized Speaker Davidson for a report of the Coordinating Committee.

Speaker Batchelder recognized Mr. Cole, Chair of the Finance, Taxation & Economic Development Committee for a report.

Speaker Batchelder recognized Dean Steinglass for an update on his work for the Commission. Dean Steinglass indicated that he had been working with the law schools to get interns for the Commission .

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 4:27pm.

  
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**Speaker William G. Batchelder**  
**Co-Chair**

  
\_\_\_\_\_  
**Rep. Vernon Sykes**  
**Co-Chair**

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

### Senate Members

*Larry Obhof, Majority Whip*

*Bill Coley*

*Bob Peterson*

*Michael J. Skindell*

*Tom Sawyer*

### House Members

*Matt Huffman, Speaker Pro Tempore*

*Ron Amstutz*

*Kathleen Clyde*

*Michael Curtin*

*Vernon Sykes*

### Public Members

*Janet Abaray*

*Herb Asher*

*Roger L. Beckett*

*Karla L. Bell*

*Paula Brooks*

*Douglas R. Cole*

*JoAnn Davidson*

*Patrick F. Fischer*

*Edward L. Gilbert*

*Jeff Jacobson*

*Charles F. Kurfess*

*Larry L. Macon*

*Frederick E. Mills*

*Dennis P. Mulvihill*

*Chad A. Readler*

*Richard R. Sapphire*

*Bob Taft*

*Kathleen M. Trafford*

*Mark Wagoner*

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 11:48am and asked staff to call the roll. The following members were present:

Rep. Ron Amstutz  
Speaker Batchelder  
Rep. Clyde  
Sen. Coley  
Rep. Curtin  
Rep. Matt Huffman

Sen. Larry Obhof  
Sen. Bob Peterson  
Minority Leader Schiavoni  
Sen. Michael Skindell  
Rep. Vernon Sykes  
Sen. Tavares

Speaker Batchelder asked the members to review and approve the minutes from the November 14<sup>th</sup>. The minutes of the meeting were approved without objection.

Speaker Batchelder asked for a motion with regards to the selection of the two Co-Chairs by the legislative members of the Commission. Representative Huffman nominated Speaker Batchelder and Representative Amstutz seconded the motion. Senator Skindell nominated Senator Tavares and Senator Obhof seconded the motion. The roll was called and Speaker Batchelder and Senator Tavares were elected Co-Chairs by a vote of 12-0.

Speaker Batchelder noted that Senator Obhof had informed the Co-Chairs about a conflict he had with voting for Mr. Roger Beckett to be a member of the Commission. Pursuant to Senate Rule 47 he asked to be excused from voting on Mr. Beckett. Representative Sykes motioned to appoint these 19 members to fill the public member positions on the Commission:

Janet Gilligan Abaray  
Herb Asher  
Karla L. Bell  
Paula Brooks  
Douglas R. Cole  
Jo Ann Davidson  
Patrick F. Fischer  
Edward L. Gilbert  
Jeff Jacobson  
Charles F. Kurfess

Jan 2014  
minutes

Larry L. Macon  
Frederick E. Mills  
Dennis P. Mulvihill  
Chad A. Readler  
Pierrette Talley  
Richard B. Saphire  
Robert A. Taft  
Kathleen M. Trafford  
Mark Wagoner

Senator Skindell seconded the motion and the Speaker asked the staff to call the roll. The roll was called and 19 of the Commission public members were appointed to terms ending on January 1, 2016 by a vote of 12-0.

Representative Amstutz made a motion to appoint Roger Beckett as a public member of the Commission and Senator Tavares seconded the motion. The roll was called and Roger Beckett was appointed to the Commission as a public member for a term ending on January 1, 2016 by a vote of 11-0 with Senator Obhof abstaining pursuant to Senate Rule 47.

Senator Skindell and Senator Tavares both thanked Representative Sykes for serving as a Co-Chair for the first term of the Commission and noted that the a change in the Ohio Revised Code now required that the Co-Chairs come from each party and each chamber.

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 11:56am.

  
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SPEAKER WILLIAM G. BATCHELDER

  
\_\_\_\_\_  
REPRESENTATIVE CHARLETA TAVARES

**Co-Chair**  
*Charleta B. Tavares*  
Assistant Minority Leader  
15<sup>th</sup> Senate District



**Co-Chair**  
*William G. Batchelder, Speaker*  
69<sup>th</sup> House District

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

Senate Members

*Larry Obhof, Majority Whip*  
*Bill Coley*  
*Bob Peterson*  
*Michael J. Skindell*  
*Tom Sawyer*

House Members

*Matt Huffman, Speaker Pro Tempore*  
*Ron Amstutz*  
*Kathleen Clyde*  
*Michael Curtin*  
*Vernon Sykes*

Public Members

*Janet Abaray*  
*Herb Asher*  
*Roger L. Beckett*  
*Karla L. Bell*  
*Paula Brooks*  
*Douglas R. Cole*  
*JoAnn Davidson*  
*Patrick F. Fischer*  
*Edward L. Gilbert*  
*Jeff Jacobson*  
*Charles F. Kurfess*  
*Larry L. Macon*  
*Frederick E. Mills*  
*Dennis P. Mulvihill*  
*Chad A. Readler*  
*Richard R. Saphire*  
*Bob Taft*  
*Pierrette Talley*  
*Kathleen M. Trafford*  
*Mark Wagoner*

Senator Tavares called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 9:15am and asked staff to call the roll. The following members were present:

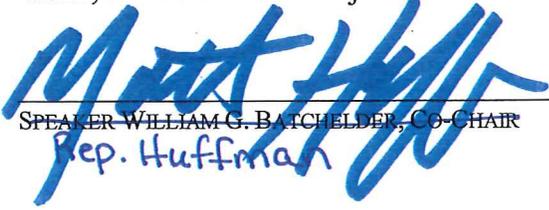
Rep. Ron Amstutz	Dr. Larry Macon
Herb Asher	Fred Mills
Speaker Batchelder	Dennis Mulvihill
Roger Beckett	Sen. Larry Obhof
Karla Bell	Sen. Bob Peterson
Rep. Clyde	Sen. Sawyer
Douglas Cole	Sen. Michael Skindell
Sen. Coley	Rep. Vernon Sykes
Rep. Curtin	Petee Talley
Jo Ann Davidson	Bob Taft
Judge Patrick Fischer	Sen. Tavares
Rep. Matt Huffman	Kathleen Trafford
Jeff Jacobson	Mark Wagoner

Senator Tavares asked the members to review and approve the minutes from the January 22<sup>th</sup> meeting. The minutes of the meeting were approved without objection.

Rep. Huffman welcomed Dr. John Dinan Professor of Political Science from Wake Forest University to the Commission. Dr. Dinan presented to the commission discussing the numerous topics including the nature and role of state constitutions, comparison of the function of state and federal constitutions, the historic debate over the including of policy amendments in state constitutions, the issues that other states are addressing as they amend and revise their constitutions, the range of approaches of other states to such common issues as the constitutional amendment/revision process, redistricting, the legislature, the judiciary, and rights-related provisions

Dr. Dinan answered questions from Commission members during the course of his presentation.

Senator Tavares asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 11:30am.

  
SPEAKER WILLIAM G. BATCHELDER, CO-CHAIR  
Rep. Huffman

  
CHARLETA B. TAVARES, CO-CHAIR

**Co-Chair**  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



**Co-Chair**  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

### Senate Members

*Larry Obhof, Majority Whip*

*Bill Coley*

*Bob Peterson*

*Michael J. Skindell*

*Tom Sawyer*

### House Members

*Matt Huffman, Speaker Pro Tempore*

*Ron Amstutz*

*Kathleen Clyde*

*Michael Curtin*

*Vernon Sykes*

### Public Members

*Janet Abaray*

*Herb Asher*

*Roger L. Beckett*

*Karla L. Bell*

*Paula Brooks*

*Douglas R. Cole*

*JoAnn Davidson*

*Patrick F. Fischer*

*Edward L. Gilbert*

*Jeff Jacobson*

*Charles F. Kurfess*

*Larry L. Macon*

*Frederick E. Mills*

*Dennis P. Mulvihill*

*Chad A. Readler*

*Richard R. Saphire*

*Bob Taft*

*Pierrette Talley*

*Kathleen M. Trafford*

*Mark Wagoner*

Speaker Batchelder called the March 13, 2014 meeting of the Ohio Constitutional Modernization Commission meeting to order at 1:37pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray

Rep. Ron Amstutz

Herb Asher

Speaker Batchelder

Roger Beckett

Karla Bell

Paula Brooks

Rep. Clyde

Douglas Cole

Sen. Coley

Rep. Curtin

Speaker Jo Ann Davidson

Rep. Matt Huffman

Speaker Charles Kurfess

Dr. Larry Macon

Fred Mills

Dennis Mulvihill

Sen. Larry Obhof

Sen. Bob Peterson

Chad A. Readler

Richard Saphire

Sen. Tom Sawyer

Sen. Michael Skindell

Governor Bob Taft

Sen. Tavares

Kathleen Trafford

Mark Wagoner

Staff noted that communication regarding anticipated absences had been received from Judge Patrick Fischer, Edward Gilbert and Jeff Jacobson prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the February 13<sup>th</sup> meeting. The minutes of the meeting were approved without objection.

Speaker Batchelder noted the reports from the committees were in the members folders. Without objection, the written reports of the committees were accepted.

Senator Tavares recognized Mark Wagoner for a report of the Organization and Administration Committee. Mr. Wagoner brought forth a recommendation that the Commission hire Steven C. Hollon as the Executive Director of the Commission and that the Co-Chairs negotiate the terms of compensation for Mr. Hollon within the confines of the Commission's appropriation. Mr. Wagoner moved that the Commission hire Steven C. Hollon for the position of Executive

Director and Senator Obhof seconded the motion. Senator Obhof also noted that the subcommittee and committee vote on Mr. Hollon was unanimous. Speaker Batchelder asked the staff to call the roll and with a vote of 27-0, Mr. Steven C. Hollon was selected as the Executive Director for the Ohio Constitutional Modernization Commission.

Mr. Hollon was present at the meeting and made a few comments to the Commission.

Senator Tavares recognized Mark Wagoner for an additional recommendation. Mr. Wagoner presented a recommendation to the Commission to amended hiring process for the three additional staff members. Mr. Wagoner moved to accept the amended hiring process and Senator Obhof seconded the motion. Senator Tavares asked the staff to call the roll and with a vote of 27-0 the amended hiring process was adopted.

Senator Tavares recognized Roger Beckett, the Chair of the Public Education and Information Committee for a committee report. Mr. Beckett announced that the Public Education and Information Committee and the Liaisons with Public Offices Committee are rescinding their recommendation to merge committees. Additionally the two committees recommend that committee report be submitted one week after the committee meeting and sent to the members soon after and posted to the commission website. Without objection the recommendation was agreed to.

Senator Tavares recognized Dr. Herb Asher, Chair of the Liaisons with Public Offices Committee and Dr. Asher had no additional comments beyond what Mr. Beckett had reported.

Senator Tavares recognized Kathleen Trafford, Chair of the Coordinating Committee and Ms. Trafford indicated that the Committee had no recommendations, but was working on assisting subject matter committees in making recommendations to the Commission.

Senator Tavares recognized Fred Mills, Chair of the Legislative Branch & Executive Branch Committee. Mr. Mills reported to the Commission on the committee's discussions regarding redistricting and indicated that the committee will take testimony on the issue of term limits at their April meeting.

Senator Tavares recognized Chad Readler, Chair of the Education, Public Institutions, Miscellaneous & Local Government Committee and indicated that the committee had been discussing education and that the committees was at the preliminary stages of possible recommendations.

Senator Tavares recognized Richard Saphire, Chair of the Bill of Rights & Voting Committee. Mr. Saphire stated that the committee was working through the Road Map that they had adopted last year.

Senator Tavares recognized Janet Abaray, Chair of the Judicial Branch and the Administration of Justice Committee and stated that the committee was focusing on judicial elections, specifically for the Supreme Court.

**Co-Chair**  
Charleta B. Tavares  
Assistant Minority Leader  
15<sup>th</sup> Senate District



**Co-Chair**  
William G. Batchelder, Speaker  
69<sup>th</sup> House District

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

Senator Tavares recognized Dennis Mulvihill, Chair of the Constitutional Revisions and Updating Committee and indicated that the committee may have recommendations in the next few months. The committee is currently focused on ways to potentially make an initiated law more accessible and desirable verses a constitutional amendment

Senator Tavares recognized Douglas Cole, Chair of the Finance, Taxation & Economic Development Committee and state that the committee will bring non controversial issues to the Commission regarding bonding authority that is no longer needed.

Speaker Batchelder recognized Dean Steinglass for an update on his work for the Commission.

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 2:05pm

  
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SPEAKER WILLIAM G. BATCHELDER, CO-CHAIR

  
\_\_\_\_\_  
CHARLETA B. TAVARES, CO-CHAIR

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

### Senate Members

*Larry Obhof, Majority Whip*

*Bill Coley*

*Bob Peterson*

*Michael J. Skindell*

*Tom Sawyer*

### House Members

*Matt Huffman, Speaker Pro Tempore*

*Ron Amstutz*

*Kathleen Clyde*

*Michael Curtin*

*Vernon Sykes*

### Public Members

*Janet Abaray*

*Herb Asher*

*Roger L. Beckett*

*Karla L. Bell*

*Paula Brooks*

*Douglas R. Cole*

*JoAnn Davidson*

*Patrick F. Fischer*

*Edward L. Gilbert*

*Jeff Jacobson*

*Charles F. Kurfess*

*Larry L. Macon*

*Frederick E. Mills*

*Dennis P. Mulvihill*

*Chad A. Readler*

*Richard R. Saphire*

*Bob Taft*

*Pierrette Talley*

*Kathleen M. Trafford*

*Mark Wagoner*

June 12, 2014

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 3:09pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray  
Rep. Ron Amstutz  
Speaker Batchelder  
Paula Brooks  
Rep. Clyde  
Rep. Curtin  
Speaker Jo Ann Davidson  
Judge Patrick Fischer  
Edward Gilbert  
Jeff Jacobson  
Speaker Charles Kurfess

Dr. Larry Macon  
Fred Mills  
Dennis Mulvihill  
Sen. Larry Obhof  
Sen. Bob Peterson  
Chad Readler  
Richard Saphire  
Sen. Tom Sawyer  
Rep. Sykes  
Petee Talley  
Governor Bob Taft  
Sen. Tavares  
Kathleen Trafford  
Mark Wagoner

Staff noted that communication regarding anticipated absences had been received from Rep. Huffman, Senator Coley, Senator Skindell, Karla Bell, Dr. Asher, Douglas Cole, and Roger Beckett prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the March meeting. The minutes of the meeting were approved without objection.

Speaker Batchelder noted the reports from the committees were in the members folders. Without objection, the written reports of the committees were accepted.

Speaker Batchelder recognized Mark Wagoner for a report of the Organization and Administration Committee. Mr. Wagoner brought forth a recommendation that the Commission hire Genevieve Long as the Administrative Assistant to the Commission and that the Co-Chairs negotiate the terms of compensation for Ms.

Long within the confines of the Commission's appropriation. Mr. Wagoner moved that the Commission hire Genevieve Long for the position of Administrative Assistant and Petee Talley seconded the motion. Speaker Batchelder asked the staff to call the roll and with a vote of 25-0, Genevieve Long was selected as the Administrative Assistant for the Ohio Constitutional Modernization Commission.

Speaker Batchelder recognized Mark Wagoner for an additional recommendation. Mr. Wagoner presented a recommendation to the Commission to adopt guidelines for subject matter committee recommendations to the Commission. Mr. Wagoner moved to accept the amended hiring process and Senator Sawyer seconded the motion. Speaker Batchelder asked the staff to call the roll and with a vote of 25-0 the guidelines for subject matter committee recommendations to the Commission were adopted.

Speaker Batchelder recognized Kathleen Trafford, Chair of the Coordinating Committee and Ms. Trafford for a committee report.

Speaker Batchelder recognized Fred Mills, Chair of the Legislative Branch & Executive Branch Committee. Mr. Mills reported to the Commission on the committee's discussions regarding redistricting and term limits.

Speaker Batchelder recognized Chad Readler, Chair of the Education, Public Institutions, Miscellaneous & Local Government Committee and indicated that the committee had been discussing education and that the committees was at the preliminary stages of possible recommendations.

Senator Tavares recognized Richard Saphire, Chair of the Bill of Rights & Voting Committee. Mr. Saphire stated that the committee was working through the Road Map that they had adopted last year.

Senator Tavares recognized Janet Abaray, Chair of the Judicial Branch and the Administration of Justice Committee and stated that the committee was focusing on judicial elections.

Senator Tavares recognized Dennis Mulvihill, Chair of the Constitutional Revisions and Updating Committee and indicated that the committee may have recommendations in the next few months. The committee is currently focused on ways to potentially make an initiated law more accessible and desirable verses a constitutional amendment.

Senator Tavares recognized Steven Hollon, the Executive Director of the Commission for an update.

Senator Tavares recognized Dean Steinglass for an update on his work for the Commission.

Senator Tavares noted that the Public Education and Information and Liaisons with Public Offices canceled their meetings today.

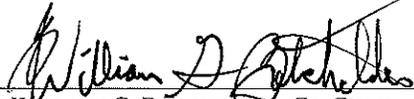
*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

Senator Tavares asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 3:34pm

  
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SPEAKER WILLIAM G. BATCHELDER, CO-CHAIR

  
\_\_\_\_\_  
CHARLETA B. TAVARES, CO-CHAIR



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### Senate Members

Larry Obhof, Majority  
Whip

Bill Coley

Bob Peterson

Michael J. Skindell

Tom Sawyer

### House Members

Matt Huffman, Speaker  
Pro Tempore

Ron Amstutz

Kathleen Clyde

Michael Curtin

Vernon Sykes

July 10, 2014

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission meeting to order at 1:48pm and asked staff to call the roll. The following members were present:

Janet Gilligan Abaray

Rep. Ron Amstutz

Speaker Batchelder

Karla Bell

Paula Brooks

Rep. Curtin

Speaker Jo Ann Davidson

Judge Patrick Fischer

Jeff Jacobson

Speaker Charles Kurfess

Dr. Larry Macon

Fred Mills

Dennis Mulvihill

Sen. Larry Obhof

Sen. Bob Peterson

Richard Saphire

Sen. Tom Sawyer

Rep. Sykes

Sen. Tavares

Mark Wagone

### Public Members

Janet Abaray

Herb Asher

Roger L. Beckett

Karla L. Bell

Paula Brooks

Douglas R. Cole

JoAnn Davidson

Patrick F. Fischer

Edward L. Gilbert

Jeff Jacobson

Charles F. Kurfess

Larry L. Macon

Frederick E. Mills

Dennis P. Mulvihill

Chad A. Readler

Richard R. Saphire

Bob Taft

Pierrette Talley

Kathleen M. Trafford

Mark Wagoner

Staff noted that communication regarding anticipated absences had been received from Rep. Huffman, Senator Coley, Dr. Asher, Rep. Clyde, Governor Taft, Kathleen Trafford, and Petee Talley prior to the meeting.

Speaker Batchelder asked the members to review and approve the minutes from the June meeting. The minutes of the meeting were approved without objection.

Speaker Batchelder noted the reports from the committees were in the members folders. Without objection, the written reports of the committees were accepted.

Speaker Batchelder recognized Mark Wagoner for a report of the Organization and Administration Committee. Mr. Wagoner brought forth a recommendation that the Commission hire Shaunte Russell as the Communications Director to the Commission and that the Co-Chairs negotiate the terms of compensation for Ms. Russell within the confines of the Commission's appropriation. Mr. Wagoner moved that the Commission hire Shaunte Russell for the position of Communications Director and Senator Sawyer seconded the motion. Speaker Batchelder asked the staff to call the roll and with a vote of 22-0, Shaunte Russell was selected as the Communications Director for the Ohio Constitutional Modernization Commission.

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Speaker Batchelder recognized Mark Wagoner for an additional recommendation. Mr. Wagoner presented a recommendation that the Commission hire Shari O'Neill as the Counsel to the Commission and that the Co-Chairs negotiate the terms of compensation for Ms. O'Neill within the confines of the Commission's appropriation. Mr. Wagoner moved that the Commission hire Shari O'Neill and Speaker Davidson seconded the motion. Speaker Batchelder asked the staff to call the roll and with a vote of 22-0, Shari O'Neill was selected as Counsel to the Commission for the Ohio Constitutional Modernization Commission.

Speaker Batchelder recognized Speaker JoAnn Davidson, Vice Chair of the Coordinating Committee. Speaker Davidson presented a recommendation to move Art. V sections 8 and 9 to the Legislative Branch and Executive Branch Committee. With a second to the motion, and without objection, the motion was agreed to and Art. V sections 8 and 9 are now assigned to the Legislative Branch and Executive Branch Committee.

Speaker Batchelder recognized Fred Mills, Chair of the Legislative Branch & Executive Branch Committee. Mr. Mills reported to the Commission on the committee's discussions regarding redistricting and term limits.

Speaker Batchelder recognized Richard Saphire, Chair of the Bill of Rights & Voting Committee. Mr. Saphire stated that the committee was working through the Road Map that they had adopted last year.

Speaker Batchelder recognized Dennis Mulvihill, Chair of the Constitutional Revisions and Updating Committee and indicated that the committee may have recommendations in the next few months. The committee is currently focused on ways to potentially make an initiated law more accessible and desirable versus a constitutional amendment.

Speaker Batchelder recognized Steven Hollon, the Executive Director of the Commission for an update.

Speaker Batchelder recognized Dean Steinglass for an update on his work for the Commission.

Speaker Batchelder recognized Richard Saphire for a question. Mr. Saphire commented about gender neutral wording in sections of the constitution and asked if the Commission would be appointing an ad-hoc committee to review the Constitution to identify instances where gender neutral language would be appropriate.

Dean Steinglass responded that a group has been appointed, but has not yet met, to look at obsolete amendments and/or objectionable wording. The issue of gender neutral wording has not come up in casual conversations.

Mr. Saphire asked if perhaps it would be appropriate for an ad-hoc body to look specifically at gender language throughout the constitution.

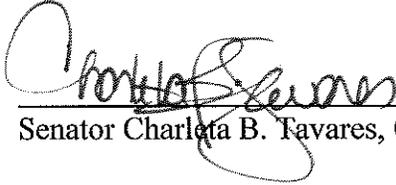
Speaker Davidson commented that with the Ohio Revised Code, for example, whenever a section of the Code comes up for an amendment LSC automatically changes gender specific language to gender neutral language. It seems a good policy to follow and perhaps the OCMC subject matter committees could do the same when submitting recommendations for revisions to the constitution.

Dean Steinglass commented that another option might be the single amendment rule which would amend all sections of the constitution where gender specific language is used.

Speaker Batchelder asked if there was any further business to come before the Commission. Seeing none, the Commission adjourned at 2:06.



Speaker William G. Batchelder, Co-Chair



Senator Charleta B. Favares, Co-Chair

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, SEPTEMBER 11, 2014

#### **Call to Order:**

Senator Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:40 p.m.

#### **Members Present:**

A quorum was present with Commission members Tavares, Abaray, Beckett, Bell, Brooks, Clyde, Cole, Coley, Curtin, Davidson, Fischer, Gilbert, Huffman, Macon, Mills, Obhof, Peterson, Readler, Saphire, Sawyer, Skindell, Sykes, Taft, and Wagoner in attendance.

#### **Approval of Minutes:**

Minutes of the July 10, 2014 meeting were reviewed and approved with correction to the title of one of the new employees and the addition of missing language regarding a question on whether the Commission should strive for gender neutral language in its work product.

#### **Committee Reports:**

Senator Tavares noted the reports from the committees were in the members' folders. The report of the Bill of Rights and Voting Committee was inadvertently left out of the packet. With the addition of this report the written reports of the committees were accepted.

Senator Tavares noted that Commission staff is working diligently to ensure that records of the work of the Commission and its committees is accurate and that the most comprehensive version possible is posted to the website for public access.

#### *Organization and Administration Committee*

Senator Tavares recognized Mark Wagoner for a report of the Organization and Administration Committee. Mr. Wagoner reported on the status of the Commission office space, purchase of furniture, and staffing. He introduced Morgan Cheek and Dare Heisterman, two externs from the Legislation Clinic at The Ohio State University Moritz College of Law. He also noted the Commission has entered into a new one-year contract with Steve Steinglass to continue his services as Senior Policy Advisor.

Mr. Wagoner presented the proposed Rules of Procedure and Conduct for the Commission. He noted the following items for clarification: the Coordinating Committee will serve as an editorial board reviewing proposed recommendations and Commission reports; Commission meetings shall be recorded, committee meetings will be recorded at the discretion of the chair and/or vice-chair.

Mr. Wagoner moved to adopt the proposed Rules of Procedure and Conduct with changes to 12.2(A)(B)(C). Sen. Sawyer seconded the motion.

Rep. Sykes inquired what happens once a proposal reaches the Commission co-chairs – is it up to them to decide if the proposal goes before the full Commission?

Rep. Huffman asked if 10.3(B) which states 22 members are required for an affirmative vote was accurate or if this should be a simple majority, which would be 17 members. Mr. Wagoner responded that 22 members are required for an affirmative vote.

Prof. Sapphire asked about the possibility of changes to a proposal after it leaves the subject matter committee. Mr. Wagoner replied that the Coordinating Committee has the opportunity to send it back to the subject matter committee. However, when a proposal is forwarded to the Commission co-chairs from the Coordinating Committee it is expected to be in final form ready for voting.

A vote was taken by roll-call. The proposed Rules of Procedure and Conduct with changes to 12.2(A)(B)(C) were adopted.

#### *Public Education and Information Committee*

Senator Tavares recognized Roger Beckett, Chair of the Public Education and Information Committee. Mr. Beckett provided an update on the work of the committee and the development of a draft communications plan.

#### *Education, Public Institutions, and Local Government Committee*

Senator Tavares recognized Chad Readler, Chair of the Education, Public Institutions, and Local Government Committee. Mr. Readler reported the committee is nearing the end of consideration of competing proposals regarding the “thorough and efficient” language in Article VI, Section 2 of the Ohio Constitution.

#### *Finance, Taxation, and Economic Development Committee*

Senator Tavares recognized Karla Bell, Vice-Chair of the Finance, Taxation, and Economic Development Committee. Ms. Bell reported the committee heard a presentation from Jon Honeck, Director of Public Policy at The Center for Community Solutions, on tax expenditures and increasing the transparency and accountability of tax practices within the Ohio Constitution.

*Judicial Branch and Administration of Justice Committee*

Senator Tavares recognized Janet Abaray, Chair of the Judicial Branch and Administration of Justice Committee. Ms. Abaray reported the committee heard from two presenters, Jo Ellen Cline, Government Relations Counsel at the Supreme Court of Ohio, and William Weisenberg, Senior Policy Advisor for the Ohio State Bar Association, on the topics of courts of conciliation, Supreme Court commissions, and methods of judicial selection in other states. The committee also discussed different proposals for a judicial appointment process and hopes to identify the best two proposals soon. The committee plans to invite Chief Justice Maureen O'Connor to the next meeting.

*Bill of Rights and Voting Committee*

Senator Tavares recognized Richard Saphire, Chair of the Bill of Rights and Voting Committee. Prof. Saphire reported the committee has been discussing provisions found in Article I and Article V of the Ohio Constitution.

**Executive Director Report**

Senator Tavares recognized Steven Hollon, the Executive Director of the Commission for an update. Mr. Hollon reported on work of the staff and externs and concurred with the earlier report by Mr. Wagoner on the Organization and Administration Committee.

**Additional Comments/Discussion/Remarks**

Senator Tavares recognized Richard Saphire for a comment. Prof. Saphire extended his compliments to the Commission staff on how quickly they are getting up to speed on the work of the Commission.

**Adjournment:**

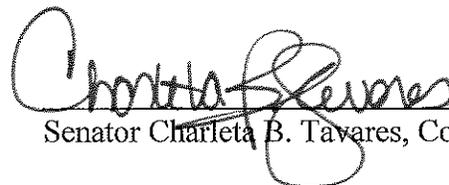
With no further business, the Commission adjourned at 2:10 p.m.

**Approval:**

The minutes of the September 11, 2014 meeting of the Commission were approved at the November 13, 2014 meeting of the committee.

Excused Absence

Speaker William G. Batchelder, Co-Chair



Senator Charleta B. Tavares, Co-Chair

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*William G. Batchelder, Speaker*  
*69<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, NOVEMBER 13, 2014

#### **Call to Order:**

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:40 p.m.

#### **Members Present:**

A quorum was present with Commission members Batchelder, Tavares, Abaray, Amstutz, Brooks, Clyde, Cole, Coley, Davidson, Gilbert, Huffman, Jacobson, Kurfess, Macon, Mills, Mulvihill, Obhof, Readler, Sapphire, Sawyer, Skindell, Sykes, Talley, Taft, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

Minutes of the September 11, 2014 meeting were reviewed and approved.

#### **Committee Reports:**

##### *Organization and Administration Committee*

Speaker Batchelder recognized Mark Wagoner for a report of the Organization and Administration Committee. Mr. Wagoner indicated there was no committee report at this time.

##### *Coordinating Committee*

Speaker Batchelder recognized Kathleen Trafford for a report of the Coordinating Committee. Ms. Trafford reported that at the last meeting the committee reviewed, and approved, the template for reports and recommendations that the subject matter committees will use to submit recommendations to the Coordinating Committee and then on to the full Commission. Ms. Trafford also complimented the staff for their excellent work in creating this template. Not only is the template user-friendly, these reports and recommendations will provide the necessary information needed to drafting the final report of the Commission

##### *Public Education and Information Committee*

No report.

### *Liaisons with Public Offices Committee*

No report.

### *Education, Public Institutions, and Local Government Committee*

Speaker Batchelder recognized Chad Readler, Chair of the Education, Public Institutions, and Local Government Committee. Mr. Readler reported the committee heard from Justice Paul Pfeifer and former justice Robert Cupp. Justice Pfeifer spoke on the “thorough and efficient” language in Article VI, Section 2 of the Ohio Constitution, and the DeRolf litigation, which he was involved with as a sitting justice, and shared his views on those topics. Justice Cupp addressed the committee in his role as chief legal counsel with the Auditor of State regarding Article VI, Section 1 of the Ohio Constitution regarding funds held by the state, for religious and educational purposes.

Mr. Readler said the committee will begin preparing reports and recommendations on various topics the committee has discussed over the past 18 months with respect to any changes in Article VI.

### *Finance, Taxation, and Economic Development Committee*

Speaker Batchelder recognized Doug Cole, Chair of the Finance, Taxation, and Economic Development Committee. Mr. Cole indicated there was no committee report at this time.

### *Judicial Branch and Administration of Justice Committee*

Speaker Batchelder recognized Janet Abaray, Chair of the Judicial Branch and Administration of Justice Committee. Ms. Abaray reported the committee heard from Justice Paul Pfeifer on Article IV, Section 2 (B)(1) of the Ohio Constitution pertaining to the original jurisdiction of the Supreme Court. He proposes that jurisdiction of the Supreme Court be expanded in order to make declaratory judgments on constitutional issues which would be discretionary in nature.

Ms. Abaray also reported that Sen. Obhof has presented two provisions of Article VI that are potentially obsolete which the committee will be voting on at its next meeting.

Ms. Abaray asked the commission if a decision has been made as to how obsolete provisions will be presented to the voters. She asked whether a large number of obsolete provisions would be identified and then taken to the voters. Ms. Trafford responded to the question by explaining that the Coordinating Committee has discussed this and it was decided that as the subject matter committees identify these provisions they will be submitted to the Coordinating Committee which will then package them in logical groups to bring to the full Commission.

### *Bill of Rights and Voting Committee*

Speaker Batchelder recognized Richard Saphire, Chair of the Bill of Rights and Voting Committee. Prof. Saphire indicated there was no committee report at this time.

### *Constitutional Revisions and Updating Committee*

Speaker Batchelder recognized Dennis Mulvihill, Chair of the Constitutional Revisions and Updating Committee. Mr. Mulvihill indicated there was no committee report at this time.

### *Legislative Branch and Executive Branch Committee*

Speaker Batchelder recognized Fred Mills, Chair of the Legislative Branch and Executive Branch Committee. Mr. Mills reported the committee has been discussing at length, and for a number of months, the issues of redistricting and apportionment. He reported that at its meeting on October 9, 2014 the committee heard a presentation from Rep. Sykes and the minority caucus of the House. Mr. Mills also reported that at the committee's meeting scheduled for later in the day it would be hearing from Rep. Huffman on HJR 11 and HJR 12 which he had recently introduced in the House of Representatives.

### **Executive Director Report**

Speaker Batchelder recognized Steven Hollon, the Executive Director of the Commission for an update. Mr. Hollon reported commission members have participated on two panel presentations. Chad Readler, Jo Ann Davidson, and Fred Mills, were on a panel at the John Glenn School Leadership Forum in October. Each talked about the work of their committee which generated great interest from the audience and several questions. Mr. Hollon also moderated a panel discussion, which included Judge Pat Fischer and Paula Brooks, for the OSBA Counsel of Delegates. This too generated great interest from the audience and several questions. He has also received requests from other groups for speakers from the Commission.

Mr. Hollon then circulated copies of reports and recommendations to the members so they could see what they will look like when they are prepared. The reports and recommendations will be the work product of the committees. Commission staff will be preparing reports and recommendations in cooperation with committee chairs, and on behalf of the committees, for every section of the constitution the committees are assigned to review. Some sections may be combined into one report and recommendation.

Shari O'Neill, Counsel to the Commission, will prepare first drafts which will then be edited by Steve Hollon and Steve Steinglass. It will then be forwarded to the committee chair for review and approval to send to committee members so they can review in advance of the next committee meeting.

Mr. Hollon stated that at the Judicial Branch and Administration of Justice Committee meeting earlier today the committee received two reports and recommendations as presented by Sen. Obhof. The Bill of Rights and Voting Committee will receive three reports and recommendations at its December meeting.

Mr. Hollon said that although the full Commission is not schedule to meet in December he would like to suggest there be a meeting so the Commission can approve the biennial report, for 2013 – 2014, which must be submitted to the General Assembly by December 31<sup>st</sup>. The report will be prepared and circulated to Commission members in advance of the next meeting.

Mr. Hollon asked the members to let him know if they would like other information provided prior to Commission and committee meetings in addition to the preview emails which have been sent to members for the October and November meetings.

Mr. Hollon also mentioned the meeting materials booklets and asked Commission members to let him know if there is any additional information they would like to see included or if they have suggestions for improvements, to make sure the members are receiving the information they need to fulfill their duties on the Commission.

**Additional Comments/Discussion/Remarks**

Speaker Batchelder recognized Sen. Sawyer for a question. Sen. Sawyer asked about the fate of legislators who will be leaving office and their role on the Commission. Speaker Batchelder said it was his understanding that these legislators could be re-appointed to the Commission. Mr. Hollon will investigate in order to provide an accurate response. Sen. Tavares cautioned that it is important that we maintain a balanced membership that is representative of the public and not be comprised of just current and former legislators and elected officials. We want to ensure that the public is engaged in this process.

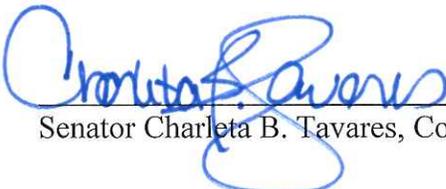
**Adjournment:**

With no further business, the Commission adjourned at 2:02 p.m.

**Approval:**

The minutes of the November 13, 2014 meeting of the Commission were approved at the December 11, 2014 meeting of the Commission.

  
\_\_\_\_\_  
Speaker William G. Batchelder, Co-Chair

  
\_\_\_\_\_  
Senator Charleta B. Tavares, Co-Chair

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Rep. Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, DECEMBER 13, 2014

#### **Call to Order:**

Speaker Batchelder called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 9:50 a.m.

#### **Members Present:**

A quorum was present with Commission members Batchelder, Abaray, Amstutz, Asher, Beckett, Bell, Clyde, Cole, Coley, Curtin, Davidson, Fischer, Gilbert, Jacobson, Mills, Mulvihill, Peterson, Readler, Sapphire, Taft, Talley, and Trafford in attendance.

#### **Approval of Minutes:**

Minutes of the November 13, 2014 meeting were reviewed and approved.

#### **Committee Reports:**

##### *Coordinating Committee*

Speaker Batchelder recognized Kathleen Trafford, chair of the Coordinating Committee, for a report on the activities of the committee. Ms. Trafford reported the Committee heard a presentation by Morgan Cheek, Ohio State University Moritz College of Law student intern, on a timeline for proposed constitutional amendments. The presentation was helpful and informative, especially for the public members. At an appropriate time, that information will be made available to all commission members. The committee also took up a review of the biennial report. Members reviewed the draft before the meeting and commended staff for doing an excellent job for putting the report together. It contains much helpful information and is in an easy to read format. Preparing the report was a particularly challenging task because staff wasn't here for most of the biennium and had to dig back through archives to put together the report. The report will be helpful to posterity. The Coordinating Committee voted to pass the report on to the Commission. The motion was made asking the Commission to approve the report. Rep. Amstutz seconded. The vote was taken and the Commission unanimously approved the report.

##### *Bill of Rights and Voting Committee*

Speaker Batchelder recognized Richard Sapphire, Chair of the Bill of Rights and Voting Committee. Prof. Sapphire reported the committee will meet immediately following this meeting. On the agenda for the meeting is a first reading of three reports and recommendations for

provisions of Article I, and a presentation on Article V, Section VI, by Michael Kirkman, Director of Disability Rights Ohio.

#### *Constitutional Revisions and Updating Committee*

Speaker Batchelder recognized Dennis Mulvihill, Chair of the Constitutional Revisions and Updating Committee. Mr. Mulvihill indicated there was no committee report at this time.

#### *Legislative Branch and Executive Branch Committee*

Speaker Batchelder recognized Fred Mills, Chair of the Legislative Branch and Executive Branch Committee. Mr. Mills indicated his committee will be meeting at 12:45 p.m. to hear briefings on the status of redistricting. The committee also is acquainting itself with Senate Joint Resolution 9 (SJR9), a pending resolution that would create a salary commission to determine pay raises for elected officials. The committee also will hear a presentation from Prof. Steinglass as to other issues that committee will be reviewing in the future.

#### **Executive Director Report**

Speaker Batchelder recognized Steven Hollon, the Executive Director of the Commission for an update. Mr. Hollon reported on the activities of the staff over the last month, stating that the bulk of staff's work has been finishing the biennial report, and expressing his appreciation for the Commission's approval of the report. He stated that the rest of his comments will be presented in correspondence to commission members, letting everyone know what is going on with the Commission. He expressed his appreciation to the staff for their outstanding effort, including the continued assistance from Prof. Steve Steinglass.

#### **Additional Comments/Discussion/Remarks**

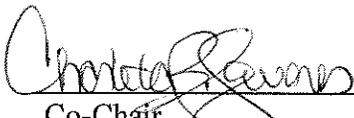
Speaker Batchelder thanked all the Commission members for their service during his time as Co-Chair. Jo Ann Davidson, speaking for the group, thanked Speaker Batchelder for his leadership of the Commission. Speaker Batchelder thanked the Commission for their praise, indicating that his future plans included teaching part time at the Ray Bliss Institute at the University of Akron.

#### **Adjournment:**

With no further business, the Commission adjourned at 2:02 p.m.

#### **Approval:**

The minutes of the December 11, 2014 meeting of the Commission were approved at the February 12, 2015 meeting of the Commission.

  
\_\_\_\_\_  
Co-Chair  
Sen. Charleta B. Tavares  
Assistant Minority Leader

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, FEBRUARY 12, 2015

#### **Call to Order:**

Senator Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:30 p.m.

#### **Members Present:**

A quorum was present with Commission members Tavares, Amstutz, Beckett, Bell, Brooks, Clyde, Cole, Curtin, Davidson, Fischer, Jacobson, Mills, Obhof, Peterson, Readler, Sapphire, Skindell, Taft, and Trafford in attendance.

New Members: Rep. Bob Cupp, Rep. Nathan Manning, and Rep. Emilia Sykes

#### **Approval of Minutes:**

Minutes of the December 11, 2014 meeting were reviewed and approved.

#### **Committee Reports:**

##### *Coordinating Committee*

Senator Tavares recognized Kathleen Trafford, chair of the Coordinating Committee, for a report on the activities of the committee. Ms. Trafford reported that today the committee reviewed two reports and recommendations from the Judicial Branch and Administration of Justice Committee for form and to be sure requisite information is included in the report. The committee approved the reports and recommendations. The Commission will hear presentations on the reports and recommendations later in the report from the Judicial Branch and Administration of Justice Committee.

##### *Public Education and Information Committee* *Liaisons with Public Offices Committee*

Senator Tavares recognized Roger Beckett, chair of the Public Education and Information Committee, for a report on the joint meeting with the Liaisons with Public Offices Committee. Mr. Beckett also reported on behalf of Herb Asher, chair of the Liaisons with Public Offices Committee. Mr. Beckett discussed what Shaunte Russell, Commission communications director, is working on, regarding ways to share the work of the Commission with the public. Specifically, the committee is considering how to work with civic, and history organizations around the state

to help stimulate conversations about the constitution in schools. Mr. Beckett said the committee is also considering what role the Commission might have in relation to the redistricting proposal.

#### *Education, Public Institutions, and Local Government Committee*

Senator Tavares recognized Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, for a report on activities of the committee. Mr. Readler reported the committee continues to work on Article VI, Section 2, specifically the “thorough and efficient” clause. The committee has spent the last two years discussing this section. The committee agrees “thorough and efficient” is hard to define, and this section could be clearer in terms of the constitutional command. There has been much debate, and the committee has heard from numerous presenters, regarding what the committee should take to the Commission. At the next meeting, the committee will move forward to address that language.

#### *Finance, Taxation, and Economic Development Committee*

Senator Tavares recognized Doug Cole, chair of the Finance, Taxation, and Economic Development Committee for a report on activities of the committee. Mr. Cole reported the committee heard a presentation from Steve Steinglass on how the state raises funds. Mr. Cole anticipates the committee will have some proposals to remove obsolete language at some point in the first half of this year.

#### *Judicial Branch and Administration of Justice Committee*

Senator Tavares recognized Judge Patrick Fischer, Vice-Chair of the Judicial Branch and Administration of Justice Committee for a report on activities of the committee. Judge Fischer deferred to Sen. Obhof who will bring forward the reports and recommendations on Article IV, Sections 19 (Courts of Conciliation) and 22 (Supreme Court Commission).

#### *Bill of Rights and Voting Committee*

Senator Tavares recognized Richard Saphire, chair of the Bill of Rights and Voting Committee for a report on activities of the committee. Mr. Saphire said the committee would be bringing forward reports and recommendations for Article I, Sections 2 (Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges), 3 (Right to Assemble), and 4 (Bearing Arms;, Standing Armies; Military Powers) at the next meeting. The committee continues to discuss Article V, Section 6, and he hopes the committee will be prepared to offer a proposal in the near future.

#### *Legislative Branch and Executive Branch Committee*

Senator Tavares recognized Fred Mills, chair of the Legislative Branch and Executive Branch Committee for a report on activities of the committee. The committee discussed modification of Ohio’s legislative term limits, and heard a presentation from Frank Strigari, Senate Majority Counsel, on Senate Joint Resolution 1 (which was SJR 9 from the previous General Assembly) dealing with a compensation commission for public officials. The committee also discussed what role the Commission might have in promoting resolutions that have been adopted by the General Assembly.

Sen. Obhof then presented the reports and recommendations for Article IV, Sections 19 and 22.

Article IV, Section 19 (Courts of Conciliation)

Upon a first reading of this report and recommendation regarding Courts of Conciliation, there were no comments.

Article IV, Section 22, (Supreme Court Commission)

Upon a first reading of this proposal regarding the ability of the General Assembly to create a Supreme Court Commission, there were no questions or comments.

Both of the reports and recommendations will be brought back at the next meeting of the Commission.

**Committee Discussion:**

*Redistricting*

Mr. Mills then raised the issue of what role, if any, the Commission should play with regard to House Joint Resolution 12 (state legislative redistricting), which was adopted by the 130<sup>th</sup> General Assembly.

According to Mr. Mills, redistricting was the number one issue for the Legislative Branch and Executive Branch Committee. Many hearings were held and much testimony was given on the topic. The goal was to try to resolve perceived problems with the current redistricting plan. The General Assembly ultimately passed a very similar provision to what this committee had been discussing, so this is a difficult, if not unique, situation in which some of the committee's work led to the General Assembly taking action. Though it is not in the statutory charge to address constitutional amendments that arrive on the ballot by some method other than the committee's recommendations, the committee would like to explore this. Mr. Mills state that depending on the Commission's feeling about this, his committee could prepare a report and recommendation on the topic. He said he believes this is an appropriate way to deal with this issue.

Committee member Karla Bell asked about the content of HRJ 12 and wondered what it meant that a redistricting commission created by resolution would adopt a new plan using the same data. Chair Mills said the reference "same data" means the redistricting commission would use the most recent official census without updates.

Prof. Saphire said regardless of whether the Commission taking a position is a good idea, the authorizing statute is not necessarily consistent with this. He said there is an argument that the Commission would be going outside its charge by taking a position on an issue it did not generate.

Executive Director Steve Hollon located and quoted from the Commission's enabling statute, R.C. 103.61, which provides that the Commission is to study the Constitution of Ohio; promote an exchange of experiences and suggestions respecting desired changes in the Constitution; consider the problems pertaining to the amendment of the Constitution; and make

recommendations from time to time to the general assembly for the amendment of the Constitution.

Sen. Obhof offered to request something on this question from the Legislative Service Commission.

Committee member JoAnn Davidson observed that, as the Commission sends recommended issues to the General Assembly, the General Assembly may make some changes before it goes to the ballot. She said the Commission then could have the reverse of the current question. This scenario would provoke the question of whether the Commission should, or would, approve language from the General Assembly that it didn't recommend.

Sen. Tavares suggested that legal staff from the Senate Democratic caucus could do some research on this question.

Mr. Beckett described how the question came up in the joint meeting of the Public Education and Information Committee and Liaisons with Public Offices Committee. He said there was a perception that a failure of the 1970s Commission was that it stopped working once recommendations were sent to the legislature. Mr. Beckett suggested the Commission needs to proceed carefully to prevent his committee from doing something inappropriate with the public outreach portion of the mission, saying that having advice on this would be valuable.

Rep. Amstutz said there may be some possible value in amending the statute that created this Commission to allow the Commission to go forward with its mission. He said it is possible to do this so the issue is clear.

Rep. Curtin commented that while this is a worthy discussion, the Commission should proceed with care. He said the Commission should not endorse anything, as this would be electioneering and is not what state government organizations do. He said such institutions can put things on the ballot, but cannot electioneer, and cannot use public resources to do that. He said that doesn't prevent individual members from doing that, but this would be a departure for a government-sanctioned commission to endorse or electioneer. He said again the Commission needs to be very careful with this.

Rep. Amstutz agreed that this is a good point. The Commission should not contemplate a wide-open, undirected role, but hopefully there would be agreement that the Commission would not be advocating but would be educating. He also said there needs to be consensus that the Commission take on a particular role.

Rep. Curtin said the Commission needs to determine where the line is drawn between educating and advocating. He said education is okay, for example the secretary of state provides information on ballot issues, including arguments pro and con, and city councils do this too. However, Rep. Curtin said it is not permitted to use public resources to promote a "yes" vote. He said "that is the terrain we need to honor. We can put forth materials and educate but the word endorse takes us outside of those guardrails."

Ms. Trafford agreed it is important to look at this carefully. She cautioned that the Commission could find itself in a position where it disagrees with the General Assembly. At that point, the Commission could elect not to endorse, putting the Commission in a very awkward position with

the General Assembly and confusing the public. She said the Commission should be cautious about how to move forward because this would not affect just this one specific proposal but would be setting a precedent for future proposals.

#### *Committee Membership Survey*

Sen. Tavares said members will be receiving a survey on committee membership. This survey is being conducted to determine if anyone is interested in serving on other committees, and to allow the three new members to indicate their committee preferences.

#### **Executive Director Report**

Executive Director Steven Hollon said the preparation of reports and recommendations is going well in terms of format. He reported he has made presentations to outside groups about the Commission's work including the Newark Rotary Club and the Warren County Bar Association. He noted some of the lawyer members of the Commission will be on a discussion panel at the Ohio State Bar Association's annual meeting on May 1, 2015. Mr. Hollon also indicated that Communications Director Shaunte Russell is working on website redesign. He then introduced two Ohio State Moritz College of Law Interns, Hailey Akah and Stacia Rapp, who will be assisting staff this semester. Mr. Hollon concluded by saying he will be attending a budget presentation to the General Assembly, and will keep the Commission informed about this as it occurs. He noted the current budget of the Commission is \$600,000.00 per year.

#### **Additional Comments/Discussion/Remarks**

Professor Sapphire expressed appreciation to the Commission staff for their work. Co-Chair Tavares echoed that comment, saying the staff has done an outstanding job.

#### **Adjournment:**

With no further business, the Commission adjourned at 2:30 p.m.

#### **Approval:**

The minutes of the February 12, 2015 meeting of the Commission were approved at the April 9, 2015 meeting of the Commission.



Co-Chair  
Sen. Charleta B. Tavares  
Assistant Minority Leader



Co-Chair  
Rep. Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, APRIL 9, 2015

#### **Call to Order:**

Senator Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:40 p.m.

#### **Members Present:**

A quorum was present with Commission members Tavares, Amstutz, Abaray, Asher, Brooks, Clyde, Coley, Cupp, Curtin, Davidson, Fischer, Kurfess, Macon, Mills, Mulvihill, Obhof, Peterson, Readler, Sapphire, Skindell, Sykes, Taft, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

Minutes of the February 12, 2015 meeting were reviewed and approved.

#### **Announcement of New Co-Chair:**

Senator Tavares, as co-chair, announced that earlier in the morning the legislative members of the Commission met to select a new co-chair to join her in that role. By a unanimous vote, Representative Ron Amstutz was selected.

Newly-elected Co-Chair Representative Amstutz expressed how deeply humbled he is to be elected to the position of co-chair. He stated that he is looking forward to overseeing the future work of the Commission, as the Commission seems to be gaining momentum. He expressed that he sees his role of co-chair as advisory. Therefore, he made himself available to all members who have an interest in seeking his assistance.

Senator Tavares explained that the two co-chairs plan to take turns running the meetings. She expressed that she is looking forward to having a co-chair, especially one with such vast institutional knowledge.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Senator Tavares recognized Kathleen Trafford, chair of the Coordinating Committee, for a report of the activities of the committee. Ms. Trafford reported that the committee met in both February and March but had no action items for the Commission at this time.

*Public Education and Information Committee*  
*Liaisons with Public Offices Committee*

Senator Tavares recognized Herb Asher, chair of the Liaisons with Public Offices Committee. Roger Beckett, chair of the Public Education and Information Committee, was excused from this month's meeting. As a result, Mr. Asher reported on the status of both committees, as the two committees meet jointly during the months when they convene. Mr. Asher reported that neither committee had action items for the Commission at this time.

*Organization and Administration Committee*

Senator Tavares recognized Mark Wagoner, chair of the Organization and Administration Committee. Mr. Wagoner reported that the Commission remains on budget and fully staffed. In addition, a budget request has been made to the General Assembly to ensure the Commission's continued funding in the upcoming state budget.

**Subject Matter Committee Reports:**

*Education, Public Institutions, and Local Government Committee*

Senator Tavares recognized Chad Readler, chair of the Education, Public Institutions, and Local Government Committee. Mr. Readler reported that the committee has been examining Article VI, Section 1 (Funds for Religious and Educational Purposes) and Article VI, Section 2 (School Funds). He stated that the committee plans to leave the two provisions in place. Next, the committee will move on to the rest of Article VI (Education).

*Finance, Taxation, and Economic Development Committee*

In the absence of Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, and Karla Bell, vice-chair of the committee, there was no report for this committee.

*Judicial Branch and Administration of Justice Committee*

Senator Tavares recognized Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee. Ms. Abaray reported that the committee primarily has been discussing Justice Paul Pfeifer's comments suggesting a possible expansion of the original jurisdiction of the Ohio Supreme Court. The committee has not come to a final recommendation regarding that topic.

*Bill of Rights and Voting Committee*

Senator Tavares recognized Richard Saphire, chair of the Bill of Rights and Voting Committee. Mr. Saphire reported that the committee is continuing the discussion of Article V, Section 6, regarding disenfranchisement of the mentally impaired. He stated that the committee is making progress on crafting an appropriate revision of that section, and hopes to make a recommendation soon. In addition, the committee had a first reading of a report and recommendation for Article I, Section 13 (Quartering of Troops), as well as a first reading of a report and recommendation for Article I, Section 17 (No Hereditary Privileges).

### *Constitutional Revision and Updating Committee*

Senator Tavares recognized Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee. Mr. Mulvihill reported that the committee would be meeting later that afternoon, after the Commission meeting. The committee members will be looking at what subject matters are or should be allowed in citizen's initiatives.

### *Legislative Branch and Executive Branch Committee*

Senator Tavares recognized Fred Mills, chair of the Legislative Branch and Executive Branch Committee. Mr. Mills reported that the committee has continued to meet each month to address its agenda. At the meeting earlier that morning, the committee had a second reading of two reports and recommendations outlining two different options relating to Article II, Section 2 (Legislative Term Limits). The committee voted to approve both reports and recommendations. The committee also heard presentations by Representatives Kathleen Clyde and Michael F. Curtin regarding their congressional redistricting proposal. Senate Joint Resolution 1 (Public Office Compensation Commission) was also on the agenda, but due to time constraints was not discussed. Both the congressional redistricting proposal and SJR 1 will be on the agenda for subsequent committee meetings.

### **Reports and Recommendations:**

Senator Obhof then presented the reports and recommendations for Article IV, Sections 19 and 22.

#### *Article IV, Section 19 (Courts of Conciliation)*

Following a second reading of this proposal regarding Article IV, Section 19 (Courts of Conciliation). Senator Tavares called for questions and comments from Commission members.

Committee member Janet Abaray asked for clarification as to whether the General Assembly could still establish an alternative court system if this section is repealed. Senator Obhof recalled comments by both Dean Steven H. Steinglass, Senior Policy Advisor to the Commission, and Jo Ellen Cline, Government Relations Council for the Ohio Supreme Court, who had indicated that repealing this provision would not affect the General Assembly's ability to create arbitration or other alternative dispute resolution systems.

Committee member Abaray then asked whether these alternate dispute resolution mechanisms are currently a forum funded by the General Assembly, making that option free for individuals to pursue. She asked whether, if the constitutional provision allowing for Courts of Conciliation were to disappear, litigants would have to pay for these alternative services. Senator Obhof responded that this repeal would not affect current forums at all.

There were no public comments on this report and recommendation. Senator Obhof motioned that the report and recommendation be adopted. Committee member Mark Wagoner seconded the motion. Senator Tavares called for a roll call vote:

Yea – 23

Nay – 1

Absent – 8

Senator Tavares – yea  
Representative Amstutz – yea  
Janet Abaray – nay  
Herb Asher – yea  
Roger Beckett – absent  
Karla Bell – absent  
Commissioner Brooks – yea  
Representative Clyde – yea  
Douglas Cole - absent  
Senator Coley – yea  
Representative Cupp – yea  
Representative Curtin – yea  
Speaker Davidson – yea  
Judge Fischer – yea  
Edward Gilbert – absent  
Jeff Jacobson – absent  
Speaker Kurfess – yea  
Dr. Macon – yea  
Representative Manning – absent  
Fred Mills – yea  
Dennis Mulvihill – yea  
Senator Obhof – yea  
Senator Peterson – yea  
Chad Readler – yea  
Richard Sapphire – yea  
Senator Sawyer – absent  
Senator Skindell – yea  
Representative Sykes – yea  
Petee Talley – absent  
Governor Taft – yea  
Kathleen Trafford – yea  
Mark Wagoner – yea

*Article IV, Section 22 (Supreme Court Commission)*

Following a second reading of a proposal regarding Article IV, Section 22 (Supreme Court Commission), there were no questions or comments. Senator Obhof motioned that the report and recommendation be adopted. Judge Patrick Fischer seconded the motion. Senator Tavares called for a roll call vote:

Yea – 24  
Nay – 0  
Absent – 8

Senator Tavares – yea  
Representative Amstutz – yea  
Janet Abaray – yea

Herb Asher – yea  
Roger Beckett – absent  
Karla Bell – absent  
Commissioner Brooks – yea  
Representative Clyde – yea  
Douglas Cole - absent  
Senator Coley – yea  
Representative Cupp – yea  
Representative Curtin – yea  
Speaker Davidson – yea  
Judge Fischer – yea  
Edward Gilbert – absent  
Jeff Jacobson – absent  
Speaker Kurfess – yea  
Dr. Macon – yea  
Representative Manning – absent  
Fred Mills – yea  
Dennis Mulvihill – yea  
Senator Obhof – yea  
Senator Peterson – yea  
Chad Readler – yea  
Richard Sapphire – yea  
Senator Sawyer – absent  
Senator Skindell – yea  
Representative Sykes – yea  
Petee Talley – absent  
Governor Taft – yea  
Kathleen Trafford – yea  
Mark Wagoner – yea

The reports and recommendations for Article IV, Sections 19 and 22, having been approved by at least twenty-two members of the Commission, are now ready for presentation to the General Assembly.

The Commission then proceeded to consider, for the first time, three reports and recommendations from the Bill of Rights and Voting Committee.

Committee chair Richard Sapphire presented the reports and recommendations for Article I, Sections 2, 3, and 4. Chair Sapphire explained that the committee recommended no change to these three provisions.

*Article I, Section 2 (Right to Alter, Reform, or Abolish Government)*

Upon a first reading of this report and recommendation regarding the right to alter, reform, or abolish government, there were no comments.

*Article I, Section 3 (Right to Assemble)*

Upon a first reading of this report and recommendation regarding the right to assemble, there were no comments.

*Article I, Section 4 (Bearing Arms; Standing Armies; Military Power)*

Upon a first reading of this report and recommendation regarding the right to bear arms; standing armies; and military power, there were no comments.

Chair Sapphire concluded by saying that these three reports and recommendations will be brought back for a second reading at the next meeting of the Commission.

**Executive Director's Report**

Executive Director Steven C. Hollon reported that Commission staff continues to research the question raised at the last Commission meeting relating to Commission member involvement in furthering ballot issues that had been subject to Commission review.

**Adjournment:**

With no further business, the Commission adjourned at 2:20 p.m.

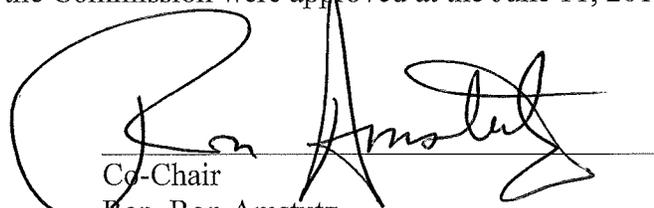
**Attachments:**

- Notice
- Agenda
- Roll call sheet

**Approval:**

The minutes of the April 9, 2015 meeting of the Commission were approved at the June 11, 2015 meeting of the Commission.

  
\_\_\_\_\_  
Co-Chair  
Sen. Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-Chair  
Rep. Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, JUNE 11, 2015

#### **Call to Order:**

Co-chair Ron Amstutz, called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:40 p.m.

#### **Members Present:**

A quorum was present with Co-chair Amstutz and Commission members Asher, Bell, Brooks, Clyde, Cupp, Curtin, Davidson, Fischer, Gilbert, Kurfess, Macon, Mills, Mulvihill, Obhof, Sapphire, Sykes, Taft, Talley, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

Minutes of the April 9, 2015 meeting were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Kathleen Trafford, chair of the Coordinating Committee, reported that the committee had no action items for the Commission at this time.

##### *Public Education and Information Committee* *Liaisons with Public Offices Committee*

Herb Asher, chair of the Liaisons with Public Offices Committee reported on the status of both committees, as the two committees meet jointly during the months when they convene. Mr. Asher reported that neither committee had action items for the Commission at this time.

##### *Organization and Administration Committee*

Mark Wagoner, chair of the Organization and Administration Committee reported the Commission remains on budget thanks to staff, and that the Commission is seeing improvements

in the process for approving reports and recommendations. Noting what he called the “roller coaster ride of the state budget,” he said he is optimistic about the future of the Commission.

### **Subject Matter Committee Reports:**

#### *Education, Public Institutions, and Local Government Committee*

Edward Gilbert, vice-chair of the Education, Public Institutions, and Local Government Committee, reported the committee has been examining Article VI, Section 1 (Funds for Religious and Educational Purposes) and Article VI, Section 2 (School Funds) and soon will be submitting reports and recommendations to the Commission recommending no change to either section. Mr. Gilbert said the committee is now looking at Article VI, Sections 3 and 4, relating to local and state boards of education, and has heard testimony from board members with the Columbus City Schools and Lincolnview Schools.

#### *Finance, Taxation, and Economic Development Committee*

In the absence of Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, and Karla Bell, vice-chair of the committee, Executive Director Steven C. Hollon provided the report for the committee. Mr. Hollon said the committee met on June 4<sup>th</sup>, rather than the regularly scheduled date in May, to accommodate the schedule of Professor Richard Briffault, Columbia School of Law, who gave a presentation on state constitutional provisions relating to state finance.

#### *Judicial Branch and Administration of Justice Committee*

Judge Patrick Fischer, vice-chair of the Judicial Branch and Administration of Justice Committee, noted there was nothing to report at this time.

#### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported the committee met earlier in the day and is making progress in deciding what to recommend regarding Article V, Section 6, which disenfranchises “idiots and insane persons.” He said the committee hopes to conclude its discussion on this issue soon.

#### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee reported the committee met earlier in the day to hear presentations on and discuss the concept of limiting the ability to use the initiative process to create a monopoly in the constitution.

Representative Michael Curtin commented that the work of the committee on this issue spans the last 15 months. He said that a number of issues have come to the ballot in last few years which has raised the question of whether the use of the constitution in this way should be permitted. Rep. Curtin said it is his view, based on research by Senior Policy Advisor Steven H. Steinglass,

that this is a pressing matter for the General Assembly and the State of Ohio. He said rather than being about marijuana, the issue is about any type of plan that would create a monopoly. Representative Curtin said he would like to refine this language for this November's ballot. He said he applauds the committee, chaired by Mr. Mulvihill, as well as the research provided by Mr. Steinglass. Rep. Curtin said it is imperative that the question regarding having a monopoly in the initiative process be addressed now because the state faces this issue in the form of a proposed initiative on the ballot on November 3, 2015. He said he believes the committee should move forward to refine the language, if possible, for this November's ballot in order to give voters an opportunity to state whether naked self-interested monopolies belong in our constitution. Rep. Curtin emphasized the seriousness of this issue.

Mr. Asher commented that the issue focuses on the potential abuse of the constitution. He said even though everyone supports the initiative, it must also be recognized that the political world has changed in terms of technology, campaigning, and funding. He said the casino provision, for example, creates a monopoly, specifies location, etc. Mr. Asher said this was not the purpose of the 1912 provision creating an initiative process. He mentioned a 2000 book by David Broder that talks about the abuse of the initiative process. Although Broder's focus wasn't on Ohio, Mr. Broder described how something that was designed to be a citizen-based, progressive reform was being captured by wealthy interests. According to Mr. Asher, Mr. Broder predicted what is happening now. Mr. Asher said he shares Rep. Curtin's concerns about this issue, and said citizens should have the ability to decide legalization of marijuana or casinos, but the notion that someone can create a monopoly in the process is not the intent of the initiative. Mr. Asher said the question is how to preserve citizens' rights to make decisions about issues like gambling or marijuana, but not at the same time create a "winner."

Co-chair Amstutz then asked Mr. Steinglass to provide some context to what has been developing in the committee. Mr. Steinglass said the committee had been looking for ways to avoid abuses of the initiative process, and noted that Commission staff was asked to do some drafting. He said the proposal just discussed in the committee meeting would be a limitation on the constitutional initiative, not a limitation on the General Assembly's ability to pass statutes or resolutions, or on citizens' ability to put forth a statutory initiative. He said the proposal would also broadly define the type of initiative that would be prohibited. For example, the language prohibits the granting of an economic interest, special privilege, benefit, right, license, or monopoly, which is not available to other similarly situated persons or entities. Mr. Steinglass said it is a broad prohibition, adding that the proposal also prohibits an amendment that violates that standard from going on the ballot, and does so explicitly. He continued, saying the proposal also provides that in the event the special-interest amendment and an anti-monopoly provision go on the ballot, the normal rule would apply (whichever one gets the most votes, trumps). The amendment provides it prevails in the event of a conflict.

Judge Fischer commented that, as a former anti-trust attorney, he recommends having someone speak to the committee on the topics of state-exempted monopolies and regulations, and horizontal and vertical monopolies. He said he thinks people would understand the issue a bit better, not only on the political side but also on the economic side. Judge Fischer said he could provide the committee with a list of potential experts on this topic.

Representative Kathleen Clyde expressed her concern with the language as drafted, saying she is not sure it addresses the issue the committee is trying to get at. She said the language isn't limited to preventing a monopoly, nor is it limited to business or for-profit entities. She said it is "very, very broad language." Rep. Clyde added "When we are talking about the citizen's right, we need to be careful to tailor the language and have lengthy discussions to make sure the language is narrowly-crafted." Rep. Clyde said she is concerned about adopting language that would have the potential for unintended negative consequences, which would then have a negative effect on the citizen's right to the initiative.

Mr. Saphire asked if the committee had a proposal yet. Co-chair Amstutz answered there is no proposal yet. He explained the Commission is having this discussion now because this issue is also under consideration in the General Assembly, where it is getting expeditious attention. Co-chair Amstutz said it is his observation that the work of this Commission has been helpful with regard to this issue. He said he would agree with Rep. Clyde that the committee hasn't yet settled on language. He noted that though the words are broad, they are constricted by the last half of the sentence. Co-chair Amstutz said it is "well worth it" to be careful in proceeding.

Mr. Mulvihill emphasized that this issue is not about marijuana, even though the press is making it about marijuana. It is about whether someone can enshrine an economic monopoly in the constitution for their exclusive benefit or the benefit of a few. Mr. Mulvihill said this is not "OCMC versus marijuana." Mr. Mulvihill added that during his committee meeting, committee Vice-chair Charles Kurfess asked Ian James, who is director of the ResponsibleOhio legalization effort, whether an anti-monopoly provision would invalidate what ResponsibleOhio is attempting, and Mr. James said it would. Mr. Mulvihill then asked whether marijuana could go on the ballot without the monopoly language. Mr. James said such an attempt would not happen because there are practical impediments, meaning if there is no economic incentive then no one would try to put it on the ballot. Mr. Mulvihill said he thinks that statement is true of every initiative proposal, so Mr. James' argument doesn't work. Mr. Mulvihill said there is nothing the committee is doing that is addressing marijuana, either directly or indirectly.

Co-chair Amstutz said the work the committee has been doing was affected by the "metes and bounds" that recently found their way into the constitution as part of the casino initiative, and the concern that was generated.

#### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee will meet immediately after the Commission meeting, and will be continuing a discussion about congressional redistricting reform in the form of HJR 2. He said the committee also will hear testimony, if there is any, about SJR 1, which creates a public office compensation commission. Mr. Mills said the committee also plans to continue to discuss what future issues would be reviewed from Article II.

Co-chair Amstutz asked commission members if there were any questions for any of the committee chairs. There being none, he noted there was a now a quorum, and the Commission

then addressed the minutes from the April 9, 2015 meeting. On a motion for approval by Co-chair Amstutz, and second by Mr. Asher, the minutes were unanimously approved.

### **Reports and Recommendations:**

Co-chair Amstutz recognized Mr. Sapphire, chair of the Bill of Rights and Voting Committee, who provided a second reading of reports and recommendations for Article I, Section 2 (Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges), Article I, Section 3 (Right to Assemble), and Article I, Section 4 (Bearing Arms, Standing Armies, Military Power). Mr. Sapphire said the Bill of Rights and Voting Committee has voted to retain these three sections in their current form. Mr. Sapphire summarized the reports and recommendations for each of these provisions, indicating that it is the recommendation of the committee that these provisions be retained.

Co-chair Amstutz proposed that action be taken on these reports and recommendations, although the Commission was still awaiting one member's arrival, because several legislative members needed to leave. Senator Larry Obhof suggested that the co-chair hold the vote but keep the voting roll open for a brief time to accommodate additional members' votes upon their arrival, and so moved. Sen. Obhof also moved that the vote be taken with regard to all three reports and recommendations together. These motions were seconded by Mr. Mulvihill. The floor was opened for discussion, but there were no comments.

The roll call vote was then taken, with the following Commission members voting in favor of adoption of the reports and recommendations:

Amstutz, Asher, Bell, Brooks, Clyde, Cupp, Curtin, Davidson, Fischer, Gilbert, Kurfess, Macon, Manning, Mills, Mulvihill, Obhof, Sapphire, Sykes, Taft, Talley, Trafford, and Wagoner.

None opposed.

### **Executive Director's Report:**

The Commission then heard from Mr. Hollon who gave the Executive Director's report. Mr. Hollon said staff is hosting three student interns from the OSU Moritz College of Law: Bryan Becker, Alex Benson, and Joyce Gray. Mr. Hollon said he will be circulating a point-of-interest email relating to the celebration of the 800<sup>th</sup> Anniversary of the Magna Carta, in which he will provide relevant articles for those who have an interest in this topic.

### **Old Business:**

Co-chair Amstutz asked if there was any other old business. There being none, he moved on to new business.

**New Business:**

Co-chair Amstutz referred to the “stirring of the budget-making process,” noting that the Senate is currently circulating a version that shortens the lifespan of this Commission. He said he takes this as a “shot across our bow,” meaning that the Commission needs to “double down” on its work and accomplish as much as possible in order to move forward. He said the budget process has not been completed and there are many in both houses, on both sides of the aisle, that are very interested in and supportive of the work of the Commission. He said it is his observation that although the Commission did have a slow start, the fact that it is now fully staffed has dramatically changed the workflow, the focus, and the leadership that the Commission has been able to generate, as well as the momentum. Co-chair Amstutz thanked staff for what they have been able to do, saying he looks forward to a longer life than might appear to be currently pending, and that he anticipates that process will conclude at the end of this month in a much more positive vein. He then asked if there was any other new business.

Mr. Asher said he wanted to follow up on an earlier reference to a book by David Broder, indicating that the title of the book is *Democracy Derailed: Initiative Campaigns and the Power of Money*. He said the book, published in 2000, identifies a whole industry consisting of campaign consultants, pollsters, lawyers, and others, all of whom have a vested interest in helping private interests and helping them push whatever interests would generate business for them. Mr. Asher said Broder was talking about this in 2000, and was focused on California, but this problem has grown much more severe in the last 15 years.

**Adjournment:**

With no further business, the Commission adjourned at 2:20 p.m.

**Approval:**

The minutes of the June 11, 2015 meeting of the Commission were approved at the September 10, 2015 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, SEPTEMBER 10, 2015

#### **Call to Order:**

Senator Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:35 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Asher, Brooks, Clyde, Coley, Curtin, Davidson, Fischer, Jacobson, Kurfess, Macon, Mills, Mulvihill, Obhof, Peterson, Readler, Skindell, Sykes, Taft, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the June 11, 2015 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Co-chair Tavares recognized Commission member Jo Ann Davidson, vice-chair of the Coordinating Committee, for a report of the activities of the committee. Ms. Davidson said the committee had recently approved reports and recommendations from the Bill of Rights and Voting Committee for Article I, Sections 13 (Quartering Troops) and 17 (No Hereditary Privileges). She said the committee also considered what would be the appropriate course of action when outside groups approach the Commission with constitutional amendments to propose. She said the Coordinating Committee discussed with the chairs of the other standing committees what would be the best way to handle such requests. She said the conclusion was that proposals from the public would be routed to staff for assignment to the appropriate committee.

##### *Public Education and Information Committee and Liaisons with Public Offices Committee*

Co-chair Tavares recognized Commission member Larry Macon, vice-chair of the Liaisons with Public Offices Committee. Mr. Macon said the group has not met since the last Commission meeting, and deferred to Commission member Herb Asher, chair of the Liaisons with Public Offices Committee, for information about what the committees may be planning.

Mr. Asher said the committee is constructing an agenda for its next meeting, and he expects the committee will want to review the progress of the Commission's communications efforts. He said it will be useful to obtain some data analytics, to find out how many visitors have gone to the website, and to determine if other outreach efforts may be needed. He said the committee is seeking suggestions for its agenda. Mr. Asher continued that he has engaged in an environmental scan of issues that might be emerging to affect state constitutions. He noted a recent article in the *Columbus Dispatch* indicating an effort was underway to utilize state constitutions to defund Iran and to adopt state constitutional provisions to divest certain investments. He noted that Ohio Treasurer Josh Mandel is involved in this effort. He said this effort inspires him to suggest that it might be useful to have a conversation about what is the appropriate use of a constitution. He wondered whether the Commission might have a role in reminding citizens that statutory changes are better.

#### *Organization and Administration Committee*

Co-chair Tavares recognized Committee member Mark Wagoner, chair of the Organization and Administration Committee. Mr. Wagoner reported that staff has now been on board for a year, and complimented Executive Director Steven C. Hollon and staff for a work product he said the Commission can be proud of. He said that employee reviews are underway. He said the committee just reviewed and adopted the Commission's budget for the new fiscal year, and that later in the meeting he would be presenting proposed amendments to the Rules for Procedure and Conduct for the Commission's review and approval.

#### **Subject Matter Committee Reports:**

##### *Education, Public Institutions, and Local Government Committee*

Co-chair Tavares recognized Commission member Chad Readler, chair of the Education, Public Institutions, and Local Government Committee. Mr. Readler complimented Mr. Hollon and staff for their assistance to the committee. He said the committee will meet again in October, when it is expected to approve reports and recommendations for Article VI, Section 1 (Funds for Religious and Educational Purposes), and Section 2 (School Funds). Readler said the committee has had several presentations regarding Article VI, Section 3 (Public School System, Boards of Education) and also will be addressing Section 4, relating to the state board of education.

##### *Finance, Taxation, and Economic Development Committee*

Co-chair Tavares recognized Commission member Doug Cole, chair of the Finance, Taxation, and Economic Development Committee. Mr. Cole said the committee has not met since June, but will meet in October, when he expects to get a sense of the committee as to what it plans to do in relation to the public debt and financing provisions in Article VIII. He said once the committee solidifies its plans, he anticipates a draft proposal for addressing those sections.

##### *Judicial Branch and Administration of Justice Committee*

Co-chair Tavares recognized Judge Patrick Fischer, vice-chair of the Judicial Branch and Administration of Justice Committee. Judge Fischer reported that the committee has considered the topic of justiciability in the context of advisory opinions and the Ohio Supreme Court's

original action jurisdiction. He said the committee is currently reviewing the use of the grand jury in Ohio, and expects to continue its discussion of that topic at its October meeting.

#### *Bill of Rights and Voting Committee*

Co-chair Tavares recognized Commission member Jeff Jacobson, vice-chair of the Bill of Rights and Voting Committee. Mr. Jacobson reported that the committee is continuing to refine its position on the question of voting rights for the mentally incapacitated, the subject of Article V, Section 6. He said the committee has triangulated and parsed through the section, and should be able to have a vote at its next meeting in November. He said the committee is discussing the whole article on voting.

#### *Constitutional Revision and Updating Committee*

Co-chair Tavares recognized Commission member Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee. Mr. Mulvihill thanked staff for its work for his committee, specifically mentioning the work done on the anti-monopoly provision that was the subject of recent meetings of the committee. He said the committee is now moving on to consider the statutory initiative process.

#### *Legislative Branch and Executive Branch Committee*

Co-chair Tavares recognized Commission member Fred Mills, chair of the Legislative Branch and Executive Branch Committee. Mr. Mills reported that the committee plans to hear presentations about two United States Supreme Court cases, as well as about the one-subject rule contained in Article II, Section 15(D). He said the committee had passed out a report and recommendation about term limits. He added that the committee has a large number of sections it plans to review.

### **Reports and Recommendations:**

#### *Article I, Section 13 (Quartering Troops)*

Mr. Jacobson, vice-chair of the Bill of Rights and Voting Committee, presented Article I, Section 13 (Quartering Troops), describing it as a “vestige of the independence movement,” that the committee recommended be retained in its present form. No comment or discussion was offered regarding this report and recommendation.

#### *Article I, Section 17 (No Hereditary Privileges)*

Mr. Jacobson then presented Article I, Section 17 (No Hereditary Privileges), which also was being recommended for no change. No comment or discussion was offered about this report and recommendation.

## Proposed Amendments to Rules of Procedure and Conduct

Mr. Wagoner, chair of the Organization and Administration Committee, reported on proposed amendments to the Commission's Rules of Procedure and Conduct. Mr. Wagoner said the committee agreed that an amendment to the rules was necessary in order to reflect that, where no change is recommended, a second reading of a report and recommendation may not be required. He said that Senator Michael Skindell had offered a further amendment that clarified the original proposed change. He noted that Sen. Skindell's amendment was being provided as a separate handout, and that the original amendment was in the meeting packets that were provided to Commission members. Mr. Wagoner then invited questions and comments. Mr. Jacobson noted that the rules indicate the use of the phrase "consecutive meeting," wondering if that requirement might be changed in order to expedite the process. Mr. Wagoner and Sen. Skindell both agreed the suggestion was a good one, and asked for a motion. Mr. Jacobson so moved, the motion was seconded by Mr. Wagoner, and Sen. Skindell's amendment was further amended to remove the requirement that the meetings at which reports and recommendations were considered be consecutive.

Mr. Wagoner then moved for the adoption of the amendments to the standing rules and Mr. Cole seconded the motion. Co-chair Tavares called for a roll call vote and the measure was unanimously approved.

Yea – 22  
Nay – 0  
Absent – 10

Senator Tavares – yea  
Representative Amstutz – yea  
Herb Asher – yea  
Roger Beckett – absent  
Karla Bell – absent  
Commissioner Brooks – yea  
Representative Clyde – yea  
Douglas Cole - yea  
Senator Coley – absent  
Representative Cupp – absent  
Representative Curtin – yea  
Speaker Davidson – yea  
Judge Fischer – yea  
Edward Gilbert – absent  
Jeff Jacobson – yea  
Speaker Kurfess – yea  
Dr. Macon – yea  
Representative Manning – yea  
Fred Mills – yea  
Dennis Mulvihill – yea  
Senator Obhof – yea  
Senator Peterson – yea  
Chad Readler – yea  
Richard Sapphire – absent

Senator Sawyer – absent  
Senator Skindell – yea  
Representative Sykes – yea  
Petee Talley – absent  
Governor Taft – yea  
Kathleen Trafford – absent  
Mark Wagoner – yea

**Executive Director’s Report:**

Mr. Hollon reported on the activities of Commission staff. He introduced Erin Oehler, a second year student at the Ohio State University Moritz College of Law, participating in the legislative clinic course. He said Erin was joining staff as an intern this semester and welcomed her.

Mr. Hollon continued that he, along with several Commission members, would be appearing at several metropolitan bar associations around the state to talk about the Commission’s work. He said one appearance had been on September 9, 2015, when he and Mr. Cole, Mr. Mills, and Mr. Readler presented at the Columbus Bar Association. Mr. Hollon said future events were planned in Cincinnati with Commission members Janet Abaray and Judge Fischer, in Dayton with Commission members Governor Bob Taft and Richard Saphire, and in Akron, with Commission member Ed Gilbert and Representative Emilia Sykes. He offered that if other members had knowledge of events in which the Commission could participate, he would be glad to assist in organizing participation.

Mr. Mulvihill asked Mr. Hollon if, once a new version of the Rules of Procedure and Conduct is prepared, a booklet-style copy of the rules could be provided to all Commission members as a reference. Mr. Hollon agreed this would be possible.

Mr. Wagoner raised that Commission member Paula Brooks had expressed a strong interest in having the Commission meet at other locations around the state. Co-chair Tavares agreed that this discussion has been ongoing, and that it was an idea that merited consideration.

**Old Business:**

There was no old business for consideration.

**New Business:**

Mr. Macon raised that it might be useful to form a committee of maybe three people to evaluate or review the effectiveness and challenges of the current committees. He said it might be helpful to be able to reformat or redirect some of the committees as necessary, or to move members from one committee to another where their skills might be a better fit. He asked Senior Policy Advisor Steven H. Steinglass if he had any thoughts on such a plan.

Mr. Steinglass said that all organizations should examine their basic structure from time to time. He said individual members have to look at how they are relating to the Commission. He said attendance and quorums have sometimes been a challenge, and the Commission may want to reassess how it is working out.

Mr. Mulvihill asked whether this evaluation is already part of the Coordinating Committee's charge. Mr. Hollon said the Coordinating Committee's charge is broad enough to accommodate that idea. Co-chair Tavares suggested the Coordinating Committee might organize a smaller subgroup to address this idea.

In other new business, Ms. Brooks introduced a guest she had brought to observe the Commission proceedings. She said Awa Moriba Coulibaly, Project Manager with the Prime Minister's office, and a citizen of Cote d'Ivoire, was in the United States participating in a program to allow her to learn about local government, and that Ms. Coulibaly will produce a report on women leaders and youth as a result of her visit. The Commission welcomed Ms. Coulibaly.

**Public Comment:**

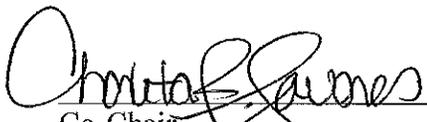
Co-chair Tavares then asked whether any members of the public would like to appear before the Commission for comment. Ray Warrick stepped forward, identifying himself as the chair of the Warren County Republican Party and the chair of a group, "Eight is Enough," that is seeking a constitutional initiative to reduce term limits for state legislators. Mr. Warrick emphasized that polling numbers do not support extending term limits, and urged the Commission not to approve a recommendation that term limits be extended.

**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:30 p.m.

**Approval:**

The minutes of the September 10, 2015 meeting of the Commission were approved at the October 8, 2015 meeting of the Commission.

  
\_\_\_\_\_  
Co-Chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-Chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, OCTOBER 8, 2015

#### **Call to Order:**

Co-chair Ron Amstutz called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:45 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Asher, Beckett, Brooks, Clyde, Cole, Coley, Cupp, Curtin, Davidson, Fischer, Gilbert, Jacobson, Kurfess, Manning, Mills, Obhof, Peterson, Readler, Sapphire, Sawyer, and Taft in attendance.

#### **Approval of Minutes:**

The minutes of the September 10, 2015 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Co-chair Amstutz recognized Commission member Jo Ann Davidson, vice-chair of the Coordinating Committee, for a report of the activities of the committee. Ms. Davidson stated the committee had reviewed two recommendations from the Education, Public Institutions, and Local Government Committee, one on Article VI, Section 1 (Funds for Religious and Educational Purposes) and the other on Article VI, Section 2 (School Funds). Both of the reports and recommendations indicated no change was recommended. She indicated the Coordinating Committee approved the format of the reports and recommendations, and that they will be sent on for the Commission to review at a future meeting. The committee also discussed an additional issue of whether it could have a role of reviewing the operation of the various committees to be sure they are operating as efficiently as possible. Ms. Davidson said Kathleen Trafford, chair of the Coordinating Committee, agreed the committee would accept this responsibility, and that the committee will work out a system for this review, meet with the Commission co-chairs, and come back to the Commission with suggestions.

*Public Education and Information Committee and  
Liaisons with Public Offices Committee*

Co-chair Amstutz recognized Commission member Roger Beckett, chair of the Public Education and Information Committee. Mr. Beckett provided a report on behalf of the Public Education and Information Committee, as well as the Liaisons with Public Offices Committee, which is chaired by Herb Asher. Mr. Beckett acknowledged and thanked staff working to spread the word about the work of the Commission. He noted that Communications Director Shaunte Russell and Counsel to the Commission Shari O'Neill presented at the annual Law and Citizenship Conference of the Ohio Center for Law Related Education. He also mentioned presentations that were made by Executive Director Steven C. Hollon and Commission members to several bar associations, including a presentation in Cincinnati by Commission members Janet Abaray and Pat Fischer, and in Dayton by Commission members Richard Saphire and Bob Taft. He also mentioned an upcoming Akron Bar Association program that will be presented by Representative Emilia Sykes and Commission member Edward Gilbert. Mr. Beckett commented that the committee will be working with Ms. Russell and Mr. Hollon to consider participating in other programs, and asked Commission members who may be giving presentations that involve the Commission to share the information with staff so that information can be provided in the newsletter. He also asked Commission members who have recommendations for outreach activities to let staff know.

*Organization and Administration Committee*

Co-chair Amstutz recognized Mr. Gilbert, vice-chair of the Organization and Administration Committee. Mr. Gilbert presented a report in which he indicated the Commission now has a budget allocation for 2016 of \$600,000.00. He said that the committee will be conducting staff reviews and evaluations this month. He said the committee recently coordinated an update of the Rules of Procedure and Conduct, and that the committee is open to further suggestions on the rules, inviting Commission members to come forward with ideas.

**Subject Matter Committee Reports:**

*Education, Public Institutions, and Local Government Committee*

Co-chair Amstutz recognized Commission member Chad Readler, chair of the Education, Public Institutions, and Local Government Committee. Mr. Readler reported that the committee met earlier that morning, accomplishing three things. He said, first, the committee passed its first two reports and recommendations out of committee, recommending no change to Article VI, Section 1 (Funds for Religious and Educational Purposes) and Section 2 (School Funds). He said the reports and recommendations would be presented to the Commission at its next meeting. He said the committee had a first reading of a report and recommendation for Article VI, Section 3, relating to the role of local school boards. He said the committee has heard testimony from several witnesses on that topic, but noted that, in addition to the committee's work there are two other actions going on relating to the power of local boards, specifically, litigation regarding Youngstown schools, and legislation related to local school boards that has been introduced in the General Assembly. He said as a result of these developments, the committee will be holding off on its final vote to see how those events play out. Mr. Readler said the committee also heard from William L. Phillis, executive director of the Ohio Coalition for Equity and Adequacy of School Funding, about the state board of education and had a discussion about that.

### *Finance, Taxation, and Economic Development Committee*

Co-chair Amstutz recognized Commission member Doug Cole, chair of the Finance, Taxation, and Economic Development Committee. Mr. Cole said the committee heard a presentation by Tim Keen, director of the Office of Management and Budget. He said Mr. Keen's presentation was the last testimony the committee anticipates hearing on the topic of state debt, and that the committee will now work on crafting some language for Article VIII that would accomplish the objectives the committee has been discussing. He said he anticipates coming forward soon with recommendations.

### *Judicial Branch and Administration of Justice Committee*

Co-chair Amstutz recognized Judge Patrick Fischer, vice-chair of the Judicial Branch and Administration of Justice Committee. Judge Fischer reported that the committee's next meeting will continue a review of the grand jury system. He encouraged anyone with an interest to come to the meeting, as there will be many witnesses to talk about the grand jury process.

### *Bill of Rights and Voting Committee*

Co-chair Amstutz recognized Richard Saphire, chair of the Bill of Rights and Voting Committee. Mr. Saphire told the Commission that his group continues to consider Article V, Section 6, involving mental capacity for voting. He said, in September the committee considered for the first time a report and recommendation proposing a change to that provision, and that at its next meeting the committee expects to have a redraft reflecting some of the discussion. He said the committee also considered Article V, Section 4, involving felon disenfranchisement, voted to retain that provision as is, and will consider a report and recommendation on that provision in November. Mr. Saphire concluded by saying the committee also began its initial consideration of Article V, Section 1, relating to who may vote.

### *Constitutional Revision and Updating Committee*

Co-chair Amstutz recognized Mr. Hollon who reported on behalf of the Constitutional Revision and Updating Committee. Mr. Hollon indicated the committee had devoted much time earlier in the year discussing the anti-monopoly provision, now known as Issue 2, which will be on the ballot in November. Mr. Hollon said, in September Senior Policy Advisor Steven H. Steinglass presented a report on the indirect statutory initiative, and that the committee held a discussion on that topic. Mr. Hollon said he expects that next month the committee will continue that discussion, ultimately deciding whether to recommend changes to the indirect statutory initiative.

### *Legislative Branch and Executive Branch Committee*

Co-chair Amstutz recognized Commission member Fred Mills, chair of the Legislative Branch and Executive Branch Committee. Mr. Mills reported that the committee heard testimony from Senator Frank LaRose and Senator Tom Sawyer regarding Senate Joint Resolution 2, a resolution they are co-sponsoring that would revise the method for drawing district lines for Ohio Congressional districts. Mr. Mills said the committee has talked extensively about this issue before and will continue the discussion at its next meeting. He said the committee also heard interested party testimony on that issue. He said the committee intends to continue a discussion

of the single subject rule at its next meeting, and that there are a number of other measures to review, so the committee will continue to be active.

### **Reports and Recommendations:**

#### *Article I, Section 13 (Quartering Troops)*

Mr. Saphire, chair of the Bill of Rights and Voting Committee, provided a second presentation on the committee's report and recommendation on Article I, Section 13, (Quartering of Troops.) After providing a brief summary of the content of the report and recommendation, Mr. Saphire indicated that the committee recommends that no change be made and that the provision be retained in its current form. At that time, Mr. Cole moved to adopt the report and recommendation, which Senator Obhof seconded. There was no discussion. The Commission then took a roll call vote, and the Commission unanimously voted to adopt the report and recommendation.

Yea – 23  
Nay – 0  
Absent – 9

Senator Tavares – yea  
Representative Amstutz – yea  
Janet Abaray - absent  
Herb Asher – yea  
Roger Beckett – yea  
Karla Bell – absent  
Paula Brooks – yea  
Representative Clyde – yea  
Douglas Cole - yea  
Senator Coley – yea  
Representative Cupp – yea  
Representative Curtin – yea  
Jo Ann Davidson – yea  
Judge Fischer – yea  
Edward Gilbert – yea  
Jeff Jacobson – yea  
Speaker Kurfess – yea  
Larry Macon – absent  
Representative Manning – yea  
Fred Mills – yea  
Dennis Mulvihill – absent  
Senator Obhof – yea  
Senator Peterson – yea  
Chad Readler – yea  
Richard Saphire – yea  
Senator Sawyer – yea  
Senator Skindell – absent  
Representative Sykes – absent  
Governor Taft – yea

Petee Talley – absent  
Kathleen Trafford – absent  
Mark Wagoner – absent

*Article I, Section 17 (No Hereditary Privileges)*

Mr. Saphire then provided a second presentation on the committee's report and recommendation on Article I, Section 17 (No Hereditary Privileges). After describing the history of this provision, which prevents the awarding of titles of nobility or hereditary emoluments, he stated that the committee had concluded that Article I, Section 17 should be retained in its current form. Upon motion by Judge Fischer, which was seconded by Ms. Davidson, the Commission voted unanimously to approve the report and recommendation of the Bill of Rights and Voting Committee for Article I, Section 17.

Yea – 23  
Nay – 0  
Absent – 9

Senator Tavares – yea  
Representative Amstutz – yea  
Janet Abaray - absent  
Herb Asher – yea  
Roger Beckett – yea  
Karla Bell – absent  
Paula Brooks – yea  
Representative Clyde – yea  
Douglas Cole - yea  
Senator Coley – yea  
Representative Cupp – yea  
Representative Curtin – yea  
Jo Ann Davidson – yea  
Judge Fischer – yea  
Edward Gilbert – yea  
Jeff Jacobson – yea  
Speaker Kurfess – yea  
Larry Macon – absent  
Representative Manning – yea  
Fred Mills – yea  
Dennis Mulvihill – absent  
Senator Obhof – yea  
Senator Peterson – yea  
Chad Readler – yea  
Richard Saphire – yea  
Senator Sawyer – yea  
Senator Skindell – absent  
Representative Sykes – absent  
Governor Taft – yea  
Petee Talley – absent  
Kathleen Trafford – absent  
Mark Wagoner – absent

**Executive Director's Report:**

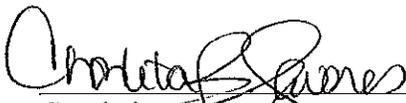
Mr. Hollon stated that, at its last meeting, the Commission adopted amendments to the Rules of Procedure and Conduct, which have now been circulated via email, as well as being provided as a hard copy to each Commission member. He noted that the full Commission is now meeting on a monthly basis, with its next meeting on November 12, the day after Veterans Day. He said at that time the Commission will be considering for the first time two reports and recommendations from the Education, Public Institutions, and Local Government Committee. Mr. Hollon commended staff and Commission members for attending events that are intended to inform the public of the Commission's work, and encouraged members to communicate activities of this nature to staff so that the news can be reported.

**Adjournment:**

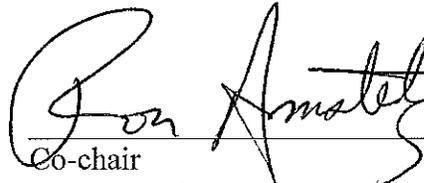
There being no further business to come before the Commission, the meeting adjourned at 2:30 p.m.

**Approval:**

The minutes of the October 8, 2015 meeting of the Commission were approved at the November 12, 2015 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, NOVEMBER 12, 2015

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:42 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Abaray, Asher, Beckett, Brooks, Clyde, Coley, Curtin, Fischer, Jacobson, Kurfess, Macon, Mills, Mulvihill, Peterson, Readler, Sapphire, Skindell, Sykes, Taft, Talley, and Trafford in attendance.

Co-chair Tavares noted that on November 6, 2015, Representative Robert McColley was named to replace Representative Nathan Manning on the Commission.

#### **Approval of Minutes:**

The minutes of the October 8, 2015 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Sen. Tavares then recognized Kathleen Trafford, chair of the Coordinating Committee. Ms. Trafford said the committee continues to meet to review reports and recommendations, and, in October, reviewed two reports and recommendations that are being presented to the Commission today. As a result of a suggestion to the Commission for interim status review of the committees' work, the Coordinating Committee will accept that task and, both this month and next month, will be hearing reports from subject matter committees as to their progress.

##### *Public Education and Information Committee* *Liaisons with Public Offices Committee*

Roger Beckett, chair of the Public Education and Information Committee reported to the Commission on behalf of his committee and the Liaisons with Public Offices Committee. Mr. Beckett acknowledged the work of staff and Communications Director Shaunte Russell to spread the news of the work of the Commission. He noted that the OCMC website will have a new

feature, which is a list of the reports and recommendations as adopted by the Commission. He also noted the website also will include the worksheets documenting the constitutional sections assigned to the various committees, as well as their progress in reviewing these provisions. In response, Sen. Tavares expressed her appreciation for the staff work on the website.

#### *Organization and Administration Committee*

Sen. Tavares noted that the Organization and Administration Committee did not meet in October and is not making a report at this time.

#### **Subject Matter Committee Reports:**

##### *Education, Public Institutions, and Local Government Committee*

Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, reported that the committee continues to work through Article VI, Education, and hopefully will complete its review of that article soon. He noted that, later in the meeting, he will be presenting, for the first time, two reports and recommendations for Article VI, Section 1, relating to funds for religious and educational purposes, and Article VI, Section 2, relating to school funds.

##### *Finance, Taxation, and Economic Development Committee*

In the absence of the chair and vice-chair of the committee, Executive Director Steven C. Hollon reported that the committee met in October, at which time it heard a presentation by Tim Keen, director of the Office of Budget and Management. Mr. Keen gave his perspective on Article VIII, offering suggestions on how the committee might address sections relating to state debt. Mr. Hollon indicated that this committee has had many ideas to come before it, but now has a plan for going forward, and expects to bring forth some reports and recommendations after its meeting in December.

##### *Judicial Branch and Administration of Justice*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, reported that the committee will meet next month to continue its discussion of issues pertaining to grand juries. She said some guest speakers will be appearing to provide insight on the use of the grand jury in state criminal prosecutions.

##### *Bill of Rights and Voting Committee*

Richard Sapphire, chair of the Bill of Rights and Voting Committee, reported that the committee today approved two reports and recommendations that will go to the Coordinating Committee. The first is on Article I, Section 20, dealing with powers reserved to the people. The second is on Article V, Section 4, involving disqualification from voting for felons. Mr. Sapphire said the committee then again took up its discussion of Article V, Section 6, involving mental capacity to vote. He said the committee is close to a final resolution with respect to a report and recommendation on that provision.

### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, reported the committee has been working for the better part of the year on what became Issue 2 on the November 3, 2015 ballot. He said the committee now is working on Article II, Section 1b, the statutory initiative process, to encourage citizens to use the statutory initiative route rather than the constitutional amendment route. He said the committee will study how to encourage that route, and will be drafting some language. He said the committee also will be looking at Article II, Section 1a, and that the committee is hoping to present recommendations to the Commission in the next several months.

### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee is scheduled to meet at 2:30 on November 12, 2015, immediately after the Commission meeting. He said its agenda includes continuing the review of the one-subject rule, on which the committee will be hearing a presentation. He added the committee also will hold a discussion of possible recommendations for Congressional redistricting reform, and that the committee is continuing to deal with the heavyweight subjects that have been assigned to it.

### **Reports and Recommendations:**

#### *Article VI, Section 1 (Funds for Religious and Educational Purposes)*

Sen. Tavares then directed the Commission's attention to two reports and recommendations being presented by Chad Readler, chair of the Education, Public Institutions, and Local Government Committee.

Mr. Readler began by noting that the committee reviewed Article VI, Section 1 with an eye on whether it is obsolete, and found it still has relevance today. He said Article VI, Section 1 provides that the principal of all funds arising from the sale or other disposition of lands or other property that is granted or entrusted to the state for educational and religious purposes shall be used or disposed of in such manner as the General Assembly shall prescribe by law. He noted the provision originally was adopted in the 1851 constitution, specifying that the principal of all funds of this nature would forever be preserved inviolate and undiminished, and required that the income from those funds be applied to the specific objects of the original grants or appropriations.

Mr. Readler said the history of the provision dates back to the Northwest Ordinance, when school lands provided by the federal government to the Ohio territory helped establish education as a priority of the new nation. By the time Ohio achieved statehood, a specific section in each township was solely dedicated to the establishment of schools. These lands were governed by the General Assembly, which at first leased the lands and later sold them, with proceeds being used for the benefit of schools.

He said the 1851 constitution allowed the proceeds granted for educational or religious purposes to be applied to the objects of the original grants, but in 1968, the U.S. Congress limited the use of sale proceeds to educational purposes only. He noted the report and recommendation summarizes a presentation made to the committee by Robert Cupp, who was, at that time chief

legal counsel for the Ohio Auditor of State and is currently serving as a state representative and a member of the Commission. Mr. Readler finished by stating that the report and recommendation documents the conclusion of the Education, Public Institutions, and Local Government Committee that Article VI, Section 1 should be retained in its current form.

Sen. Tavares then asked if there were public comments or discussion by Commission members regarding this report and recommendation. There being none, she indicated a second presentation would be made at the next Commission meeting, and that the Commission will vote at that time.

*Article VI, Section 2 (School Funds)*

Mr. Readler then gave a presentation regarding Article VI, Section 2, which deals with school funds, indicating that the section provides that the General Assembly shall make such provisions, by taxation or otherwise as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state. He said the section was adopted as part of the Ohio Constitution of 1851 and has never been amended, and that it includes the first use of the phrase “thorough and efficient” in the constitution of any state, a concept that was influenced by an 1837 report about education prepared by Calvin Ellis Stowe. He said some 22 states are recognized as having constitutional provisions imposing educational standards similar or identical to Ohio’s thorough and efficient clause, but that the definition of common schools as well as what constitutes a thorough and efficient system varies widely from state to state.

Mr. Readler indicated the section has been the subject of significant litigation and was the subject of much debate by the committee. He continued that the report and recommendation outlines the significance of the Ohio Supreme Court’s conclusion in the DeRolph line of cases that the state educational funding system violated the “thorough and efficient” clause. He noted the committee heard from many presenters on the topic, including Ohio Supreme Court Justice Paul E. Pfeiffer. He added that endnote 9 references scholarly work done by Senator Larry Obhof on the topic. He said the committee debated the issue quite thoroughly, but in the end decided to keep the language as is. Thus, he said, the report and recommendation indicates that the committee concludes that Article VI, Section 2 should be retained in its current form.

Sen. Tavares then asked if there were public comments or discussion by Commission members regarding this report and recommendation. There being none, she indicated a second presentation would be made at the next Commission meeting, and that the Commission will vote at that time.

**Executive Director’s Report:**

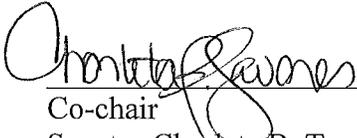
Sen. Tavares then recognized Executive Director Steven C. Hollon, who reported that he sent letter to public members relating to their interest in continuing service on the Commission. He said that the Commission co-chairs had requested the distribution of a form to allow members to indicate if they want to be reappointed. Mr. Hollon asked the public members of the Commission to respond by completing the form and returning it to him no later than November 30.

**Adjournment:**

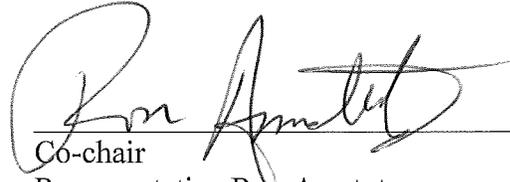
There being no further business to come before the Commission, the meeting adjourned at 2:10 p.m.

**Approval:**

The minutes of the November 12, 2015 meeting of the Commission were approved at the December 10, 2015 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, DECEMBER 10, 2015

#### **Call to Order:**

Co-chair Ron Amstutz called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:40 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Abaray, Asher, Brooks, Clyde, Cole, Coley, Curtin, Gilbert, Jacobson, Kurfess, Mills, Mulvihill, Obhof, Peterson, Readler, Sapphire, Skindell, Taft, Talley, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the November 12, 2015 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Mr. Mulvihill said, at its meeting that morning, the committee approved a report and recommendation for Article I, Section 20 (Powers Reserved to the People), and Article V, Section 4 (Exclusion from Franchise for Felony Conviction), both issued by the Bill of Rights and Voting Committee. Mr. Mulvihill continued that the committee heard from the Legislative Branch and Executive Branch Committee regarding a report and recommendation on Article II, Section 2 (Election and Term of State Legislators). He said the report and recommendation provides two options for extending term limits, one option extending the limits only for newly-elected legislators, and one extending the limits for all legislators. Mr. Mulvihill said the committee did not approve the report and recommendation, but agreed to hold over its decision until next month in order to consider the process by which a recommendation with separate options could be addressed.

Mr. Mulvihill said the committee continued its review of activities in each of the subject matter committees by hearing status reports from Doug Cole, as chair of the Finance, Taxation, and Economic Development Committee, and Richard Sapphire, as chair of the Bill of Rights and Voting Committee.

Mr. Mulvihill described a question that arose in the Coordinating Committee meeting about how to address gender-specific language in the Ohio Constitution. Mr. Mulvihill said the Coordinating Committee had expressed interest in looking at this question if the Commission has not already decided it.

### **Subject Matter Committee Reports:**

#### *Education, Public Institutions, and Local Government Committee*

Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, reported on the activities of his committee. Mr. Readler said the committee would meet in January to continue its review of the education sections of the constitution. He said that later in the meeting he would be making a second presentation to the Commission of a report and recommendation on Article VI, Section 1 (Funds for Religious and Educational Purposes), and a second presentation of a report and recommendation on Article VI, Section 2 (School Funds).

#### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee had met earlier in the day, and had an extended conversation around a relatively-concrete proposal regarding Article VIII, and its sections dealing with public debt. He said the committee anticipates having a report and recommendation at its next meeting in February, with a second reading shortly after that.

#### *Judicial Branch and Administration of Justice*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, reported that the committee would be meeting later in the afternoon, and would be continuing its discussion of issues surrounding the use of the grand jury in criminal prosecutions. She said the committee would be hearing presentations by two members of the Ohio Prosecuting Attorneys Association.

#### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that the committee met in November and was not supposed to meet today, but met briefly in anticipation of completing its work on Article V, Section 6 (Mental Capacity to Vote). Mr. Saphire said the committee did not conclude its consideration of that section, so the committee would be taking up the question at its next meeting.

#### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, reporting as chair of the Constitutional Revision and Updating Committee, said the committee met and reported to the Commission last month and had nothing new to report.

## *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee intends to meet in January to consider a proposal for Congressional redistricting.

### **Reports and Recommendations:**

#### *Article I, Section 20 (Powers Reserved to the People)*

Co-chair Amstutz recognized Mr. Sapphire, who provided a first presentation of a report and recommendation issued by the Bill of Rights and Voting Committee on Article I, Section 20 (Powers Reserved to the People). Mr. Sapphire said that the section was adopted as part of the 1851 constitution and expresses the view that the powers of the government are derived from the people. Article I, Section 20 states: “This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers, not herein delegated, remain with the people.”

Mr. Sapphire indicated that the report and recommendation states that Article I, Section 20 has not been amended since its adoption, with the 1970s Ohio Constitutional Revision Commission not recommending any changes. He further discussed the history of the section in Ohio courts, noting that the section is generally cited in conjunction with other sections of the Bill of Rights. He said the committee heard no presentations on the section. Mr. Sapphire concluded by stating that the Bill of Rights and Voting Committee recommends the provision should be retained in its current form.

Co-chair Amstutz asked for public comment. There being none, he then asked if Commission members wished to discuss the report and recommendation, which they did not. Co-chair Amstutz then said this is a first presentation, and that there is no action indicated at this time. He said a second presentation will be made at the Commission’s next meeting on January 14, 2016.

#### *Article V, Section 4 (Exclusion from Franchise for Felony Conviction)*

Co-chair Amstutz then recognized Mr. Sapphire for a presentation of a report and recommendation for Article V, Section 4 (Exclusion from Franchise for Felony Conviction).

Mr. Sapphire explained that Article V, Section 4 relates to the power of the General Assembly to exclude from the privilege of voting or being eligible to office any person convicted of a felony. He stated that Article V, Section 4 reads: “The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of a felony.” Mr. Sapphire said the provision modifies the broad enfranchisement of United States citizens over the age of 18 who otherwise meet the qualifications of an elector, as contained in Article V, Section 1. Adopted as part of the 1851 Ohio Constitution, he said the provision was amended in 1976 to substitute the word “felony” for the phrase “bribery, perjury, or other infamous crime.”

Mr. Sapphire continued that the section empowers the General Assembly to enact laws that exclude felons from voting or holding office, rather than directly disenfranchising. He said, exercising this authority, the General Assembly enacted R.C. Chapter 2961, which provides that a person who pleads or is found guilty of a felony “is incompetent to be an elector or juror or to

hold an office of honor, trust, or profit,” and that when a felon is granted parole or other types of release the felon is competent to be an elector, and to sign a petition or register to vote. Mr. Sapphire also described discussions and actions by the 1970s Ohio Constitutional Revision Commission, which resulted in substitution of the word “felony.”

Mr. Sapphire said the report and recommendation describes litigation involving the subject of felon disenfranchisement, noting that the United States Supreme Court upheld a law disenfranchising felons on the basis that the Fourteenth Amendment guarantees the right to vote “except for participation in rebellion, or other crime,” thus finding an “affirmative sanction” for felony disenfranchisement laws in the Fourteenth Amendment. He indicated the Ohio Supreme Court has cited Article V, Section 4 only a few times, primarily in cases pertaining to eligibility for public office, rather than to the disenfranchisement of felons.

Mr. Sapphire described the report and recommendation’s account of a presentation by Ohio State University, Moritz College of Law Professor Douglas Berman, who noted that Ohio is one of the few states that allow felons to vote once they have been released from incarceration. Mr. Sapphire stated the report and recommendation reflects the committee’s consensus that Ohio’s disenfranchisement of felons only during the period of their incarceration is a reasonable approach that appropriately balances the goals and interests of the criminal justice system with those of incarcerated felons. Thus, he said, the report and recommendation indicates the Bill of Rights and Voting Committee’s conclusion that Article V, Section 4 should be retained in its current form.

Co-chair Amstutz asked for public comment and for discussion by the committee. There being none, he indicated this is a first presentation of the report and recommendation, and that there is no action indicated. He said a second presentation will be made at the Commission’s next meeting on January 14, 2016.

*Article VI, Section 1 (Funds for Religious and Educational Purposes)*

Co-chair Amstutz then recognized Education, Public Institutions, and Local Governments Committee Chair Chad Readler for a second presentation on the report and recommendation for Article VI, Section 1 (Funds for Religious and Educational Purposes).

Mr. Readler gave a brief summary of the contents of the report and recommendation for Article VI, Section 1, indicating that the section relates to funds for religious and educational purposes. Mr. Readler said Article VI, Section 1 provides that “The principal of all funds arising from the sale or other disposition of lands or other property that is granted or entrusted to the state for educational and religious purposes shall be used or disposed of in such manner as the General Assembly shall prescribe by law.” He said the committee reviewed the provision not intending to make a change but to be sure it still has significance today, as well as to consider whether the state actually holds land that is subject to these requirements. He said the committee learned that there are still some lands that are subject to this provision, and for that reason the committee unanimously agreed that the language should stay intact.

Co-chair Amstutz then asked for public comment and there was none. Chair Readler then moved for adoption of the report and recommendation, and Governor Taft seconded the motion. Offered the opportunity to discuss the motion, Commission members declined.

Co-chair Amstutz asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – absent  
Bell – absent  
Brooks – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Cupp – absent  
Curtin – yea  
Davidson – absent  
Fischer – absent  
Gilbert – yea  
Jacobson – yea  
Kurfess – yea  
Macon – absent  
McColley – absent  
Mills – yea  
Mulvihill – yea  
Obhof – yea  
Peterson – yea  
Readler – yea  
Sapphire – yea  
Sawyer – absent  
Skindell – yea  
Sykes – absent  
Taft – yea  
Talley – yea  
Trafford – yea  
Wagoner – yea

The motion passed unanimously, by a vote of 23 in favor and none opposed, with nine absent.

*Article VI, Section 2 (School Funds)*

Mr. Readler then gave a second presentation of the report and recommendation for Article VI, Section 2 (School Funds).

Mr. Readler briefly summarized the contents of the report and recommendation, which indicates that Article VI, Section 2 provides that “The General Assembly shall make such provisions, by taxation or otherwise as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but, no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school funds of this State.”

Mr. Readler said the language dates back to the Ohio Constitution of 1851 and for a long time was not a subject of court treatment and was left alone by the 1970s Commission. He said the section gained renewed interest in the 1990s when the Ohio Supreme Court, in the *DeRolph* cases,<sup>1</sup> considered the meaning of the “thorough and efficient” clause and its impact on the public school system in Ohio. For that reason, he said the committee felt that it was appropriate to spend a fair amount of time addressing the provision. Mr. Readler continued, saying the discussion proved helpful despite there being no consensus as to any specific change to the language as written. He described that the committee did reach a consensus that there were not enough votes to make a concrete change, and so agreed to leave the provision as written. Finally, Mr. Readler noted the report and recommendation includes scholarship by Senator Larry Obhof. Mr. Readler concluded by saying the report and recommendation indicates that Article VI, Section 2 should be retained in its current form.

Co-chair Amstutz then opened the floor for public comment, of which there was none.

Commission member Ed Gilbert, vice-chair of the Education, Public Institutions, and Local Government Committee, moved to adopt the report and recommendation, which motion was seconded by Senator Bill Coley. Co-chair Amstutz then asked the Commission for discussion.

Commission member Charles Kurfess asked whether the Ohio Supreme Court’s *DeRolph* case added anything to the committee’s consideration of alternative language. Mr. Readler answered that the committee reviewed all of the *DeRolph* decisions, noting that the phrase “thorough and efficient” is subject to different meanings. He said it was difficult to find another way to define those terms, and that one proposal would have spelled that out to include other adjectives and requirements, including an “outstanding,” “high-performing,” “excellent,” or “equitable” system. There was one suggestion to remove the words “thorough and efficient” entirely on the thought that the General Assembly is required to provide an educational system open to all students, but the committee concluded that the General Assembly and the boards of education should measure the effectiveness of those systems, not the courts. He said the committee had other views as well, but, like the Ohio Supreme Court, the committee was not able to reach a significant consensus on what change would be most appropriate.

Mr. Gilbert agreed with Mr. Readler, saying the committee had at least eight to 10 speakers on every angle of this section. He said the topic was very well researched and discussed, and the committee spent a great deal of time going through this on all angles. He said the committee could not agree on new language and so left it the same.

Mr. Sapphire commented that the United States Constitution does not use the word “education,” and there are other states that do not explicitly guarantee education in their constitutions. He wondered if the committee considered deleting the language entirely, and whether inclusion of this language made any difference at all. He said, as he reads *DeRolph*, the Supreme Court ultimately left it to the General Assembly, so that he is not sure at the end of the day that the guarantee in the constitution made much of a difference.

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<sup>1</sup>See *DeRolph v. State*, 78 Ohio St.3d 193, 1997-Ohio-84, 677 N.E.2d 733 (*DeRolph I*); *DeRolph v. State*, 89 Ohio St.3d 1, 2000-Ohio-437, 728 N.E.2d 993 (*DeRolph II*); *DeRolph v. State*, 93 Ohio St.3d 309, 2001-Ohio-1343, 754 N.E.2d 1184 (*DeRolph III*); and *DeRolph v. State*, 97 Ohio St.3d 434, 2002-Ohio-6750, 780 N.E.2d 529 (*DeRolph IV*).

Mr. Readler answered that one proposal would have removed the “thorough and efficient” language, the thought being that the question posed is who should decide what the state’s public education system looks like, should it be the legislature, the governor, and the boards of education on the one hand, or should there be a role for the courts to decide. He said *DeRolph* injected the courts into this public policy question. He added, there is a lot of debate about whether that was a good or bad thing but that was a focus of the committee’s discussion. He said he is not equipped to answer questions about the analytical aspects of the provision.

Co-chair Charleta Tavares said she would revert to the constitutional convention of 1850-51, where the delegates were expressing their intent that Ohio should have an educational system for all. So she would object to taking the language having to do with education out of the constitution.

Sen. Obhof commented that he was not on the committee, but he thinks *DeRolph* resulted in significant changes to the school funding system in Ohio and played a major role in how things were done as a policy matter. To the extent that the constitutional provision has been looked at historically, it has actually resulted in significant policy changes over a number of decades. So, he said, answering the question of whether the case mattered, the answer is yes.

Commission member Herb Asher said the original *DeRolph* case became an issue of school facilities, which became another impact of *DeRolph*. He said there have been changes that came about, not necessarily in the area of school performance, but about support for facilities.

Mr. Gilbert said there is no question *DeRolph* made a difference, and education is a right and should be, adding the case made a big difference in funding and how schools are operating today. He said “we should consider education as a right.”

Commission member Jeff Jacobson said the inclusion of provisions about education in state constitutions came about in the mid-1800s because of a desire to not let education be in the hands of religious bodies. Citizens were worried that those who had access to religious educational institutions might not support public schools, so the desire came about in many states to put education in the constitution. He said, judging the *DeRolph* litigation, what was clear in the General Assembly at that time was not that the “thorough and efficient” provision got Ohio into trouble, but that the state did not have a rational basis for what it was doing, and that government actions must at least meet a rational basis test. He added, in Ohio, the system was based on schools getting whatever was left over when everything else was funded. That approach could not be a rational basis, so the legislature developed a rational basis. He said that was the General Assembly’s responsibility under any reading of the constitution. He said the “thorough and efficient” language had no effect other than to invite confusion and/or mischief.

Mr. Cole asked, putting aside whether thorough and efficient played a role, whether the committee considered crafting language clarifying that the determination of what constitutes “thorough and efficient” education should go to the legislative body, rather than to a judicial body.

Mr. Readler answered there were certainly discussions to that end, but he does not know if there was a specific proposal that would have added that. Generally speaking, he said there were members who thought it was appropriate for the courts to be the final arbiter of the provision and

that it was not something to be reserved exclusively to the legislature, governors, and the boards of education.

Mr. Gilbert said the committee had at least three proposals for other language, so that was all considered and debated.

Co-chair Amstutz said he, too, has a history with the provision over the years. He said that 1851 was the time when public education was being promoted across the country and Ohio was at the vanguard of the movement. As it relates to the court decision, he said in the case of facilities the state basically had provided almost no funding, and that has changed to many billions of dollars as a result of the influence of that litigation. He added that, in the case of operating expenditures, not only did the methodology for distribution change, but the volume of expenditure increased about 85 percent over a time when inflation increased 32 percent. He continued that, because that was a main part of the state's budget, it was to the detriment of higher education during that time period. He said the *DeRolph* decision had a tremendous impact even though the outcome is reflected in this report, which is that there continues to be a difference of opinion as to whether the Court decision should continue to press for additional funding. He commented that this is why no one on that side of the discussion is willing to say the courts should no longer have as much influence in interpreting what clearly is a mandate on the legislature. He concluded that there are differences of opinion, so that is why it was hard to find consensus for change.

Co-chair Amstutz asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – absent  
Bell – absent  
Brooks – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Cupp – absent  
Curtin – yea  
Davidson – absent  
Fischer – absent  
Gilbert – yea  
Jacobson – yea  
Kurfess – nay  
Macon – absent  
McColley – absent  
Mills – yea  
Mulvihill – yea  
Obhof – yea  
Peterson – yea  
Readler – yea  
Sapphire – yea  
Sawyer – absent

Skindell – yea  
Sykes – absent  
Taft – yea  
Talley – yea  
Trafford – yea  
Wagoner – yea

The motion passed by a vote of 22 in favor and one opposed, with nine absent.

**Executive Director’s Report:**

Co-chair Amstutz then recognized Executive Director Steven C. Hollon for his report. Mr. Hollon directed Commission members to the draft of the Annual Report. He noted that the Commission is only required to issue a biennial report, but it was determined it would be in the Commission’s interest to issue an annual report. Mr. Hollon pointed out, on page 50 of the booklet regarding the Coordinating Committee, there is incomplete material that will be corrected after today’s meeting. He indicated the report should say there are 11 reports and recommendations for presentation to the full Commission. One item not listed is Article I, Section 13 (Quartering of Troop); that item will be added to the final draft. He further indicated that, on the last page, only two items were considered and approved by the Coordinating Committee; it did not approve the report and recommendation for Article II, Section 2 (Election and Term of State Legislators). The recommendations to the General Assembly on the last page also were not subject to adoption today and so they will not be included in the Annual Report. He said, other than these noted changes, this is the report that he would like to provide to the General Assembly leadership, and would need the full approval of the Commission today to do so.

Motion to approve the report by Pierrette Talley, seconded by Mr. Mills. There was no discussion by members of the Commission.

Co-chair Amstutz took a voice vote, on which the motion passed unanimously, and the report was adopted.

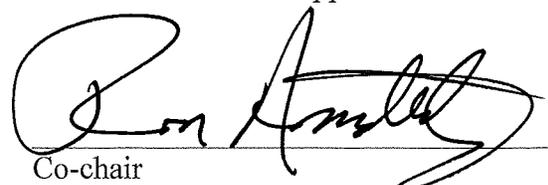
**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:30 p.m.

**Approval:**

The minutes of the December 10, 2015 meeting of the Commission were approved at the January 14, 2016 meeting of the Commission.

  
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Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES OF THE LEGISLATIVE MEMBERS MEETING

WEDNESDAY, JANUARY 6, 2016

#### **Call to Order:**

Representative Ron Amstutz, co-chair of the Ohio Constitutional Modernization Commission, called the meeting of the legislative members of the Commission to order at 2:09 p.m.

#### **Members Present:**

A quorum was present with legislative members Amstutz, Clyde, Coley, Cupp, Curtin, McColley, Obhof, Peterson, Sawyer, Skindell, and Sykes in attendance.

#### **Election of Co-Chairs:**

Co-chair Ron Amstutz explained that he had spoken with Co-chair Charleta Tavares earlier in the day and they agreed to the agenda for the meeting. He said Co-chair Tavares had planned to attend, but that a family member's health emergency had called her away.

Co-chair Amstutz said that the first purpose of the meeting is for the legislative members of the Commission to determine who the co-chairs will be going forward. He said the legislative members also need to appoint the remaining members of the Commission, who are 20 public, or non-legislative, members.

He then opened the floor for nominations for co-chair. Senator Tom Sawyer nominated Representative Ron Amstutz for co-chair. Sen. Skindell seconded the motion.

Representative Robert McColley then nominated Senator Charleta Tavares as co-chair, and Representative Kathleen Clyde and Sen. Skindell both seconded the motion.

Senator Larry Obhof then moved for a roll call vote on both nominations to be taken simultaneously, and Sen. Skindell seconded the motion.

A roll call vote was then taken on the question of whether Rep. Amstutz and Sen. Tavares should continue as co-chairs of the Commission. The motion passed unanimously.

## **Appointment of Public Members**

Co-chair Amstutz said the second purpose of the meeting is for the legislative members to appoint up to 20 public members of the Commission. He directed attention to a list of the 20 public members, indicating that Larry Macon, number 12 on the list, had requested not to be reappointed. Rep. Clyde said that it was agreed that Mr. Macon should be reappointed at this time, but could be replaced at a later time.

Executive Director Steven C. Hollon then indicated that Charles Kurfess had expressed a willingness to have a replacement named for him, but would be willing to serve until a replacement is found.

Representative Michael Curtin said, as clarification, that the legislative members would be reappointing Charles Kurfess and Larry Macon with the understanding that they may be replaced. It was generally agreed that this was the plan.

Rep. McColley then moved to appoint the 20 public members. Co-chair Amstutz asked Rep. McColley to reframe the motion as leaving public member Roger Beckett off so that he could be voted on separately. Rep. McColley then moved to reappoint all public members other than Roger Beckett. Rep. Clyde seconded the motion.

Discussion was held during which it was explained that Roger Beckett and Sen. Obhof have a campaign relationship requiring Sen. Obhof to recuse from a vote relating to the appointment of Roger Beckett.

A roll call vote was taken, and the motion to appoint all members other than Roger Beckett passed unanimously.

Co-chair Amstutz then moved to appoint Roger Beckett to the Commission, with Representative Robert Cupp seconding the motion.

A roll call vote was taken, with Sen. Obhof abstaining, and the motion to appoint Roger Beckett passed.

## **Other Business**

Co-chair Amstutz then indicated that this concluded the business on the agenda. He suggested as a point of information that R.C. 103.63, the statute that describes the procedure for appointing members of the Commission, can be interpreted as meaning that the terms of all legislative members expires on January 1 of even numbered years. He said he is not sure that was the intention of the statute, but that the General Assembly has made sure to comply by making appointments of the legislative members.

Co-chair Amstutz then stated that the legislative members would be meeting along with the public members at the Commission meetings on Thursday, January 14, 2016. Mr. Hollon stated

that the full Commission meeting would be taking place at 11:00 a.m. rather than at 1:30 p.m. due to a meeting room being unavailable.

Sen. Skindell asked whether the chairs of the committees would remain the same or if new chairs would be named. Co-chair Amstutz said he has not discussed this with anyone but assumes the chairs will remain the same. He said the committee membership had been reorganized at the beginning of 2015, and that the process had been handled by the co-chairs. He said he will discuss this with Co-chair Tavares.

Mr. Hollon then described the meeting schedule for the January meetings. He said the main order of business for the Commission meeting is a second review of two reports and recommendations. He said the meeting materials will be sent to members either on Thursday or Friday of this week.

**Adjournment:**

With no further business, the meeting adjourned at 2:23 p.m.

**Approval:**

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Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

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Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, JANUARY 14, 2016

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 11:12 a.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Abaray, Asher, Beckett, Brooks, Clyde, Cole, Coley, Cupp, Curtin, Jacobson, Jordan, McColley, Mills, Mulvihill, Peterson, Readler, Sykes, Taft, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the December 10, 2015 meeting of the Commission were reviewed and approved.

#### **Co-chair Report**

After calling the meeting to order Co-chair Tavares welcomed members to the first meeting of 2016. She noted that the Commission has a new member, Senator Kris Jordan, who was appointed to replace Senator Larry Obhof. Sen. Jordan commented that he looks forward to working with the Commission. Co-chair Tavares then recognized Co-chair Ron Amstutz for his report on a meeting of the legislative members.

Co-chair Amstutz reported that the legislative members of the Commission met on January 6, 2016 for the purpose of appointing the public members of the Commission, as well as to elect the co-chairs. He indicated that all public members were re-appointed; however, not all had requested reappointment, and replacements for those members may be named soon. He added that the legislative members voted to retain both himself and Sen. Tavares as co-chairs, and that he looks forward to continuing to work with the Commission in the coming year.

## **Standing Committee Reports:**

### *Coordinating Committee*

Kathleen Trafford, chair of the Coordinating Committee, reported that the committee would be meeting later in the day, and anticipated hearing status reports from the chairs of the Constitutional Revision and Updating Committee and the Judicial Branch and Administration of Justice Committee.

## **Subject Matter Committee Reports:**

### *Education, Public Institutions, and Local Government Committee*

Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, reported on the activities of his committee. Mr. Readler said the committee is focusing on Article VI, Section 4, relating to the creation of a state board of education and the board's selection of a state superintendent of schools. He said the committee heard a presentation by Tom Gunlock, president of the state board, who gave insightful testimony on the role of the board as well as the challenges the board faces in coordinating efforts with other governmental bodies that address educational issues. Mr. Readler said the committee will hear additional testimony at its next meeting, and suggested that anyone with an interest in the state board of education or the state superintendent contact him.

Senator Bill Coley, a member of the committee, commented that the discussion in the meeting had been enlightening, and had raised questions about the purpose and necessity of a state board of education. Sen. Coley complimented Mr. Gunlock for highlighting an area in which the constitution potentially could be amended. He asked whether Mr. Readler intends to bring in other groups that may have opinions on that topic. Mr. Readler answered that the committee previously heard from Bill Phillis on the role of the board, and anticipates that at future meetings the committee will hear from other current and former members of the board, and possibly from legislative members who are familiar with education communities and the General Assembly's role in education.

### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee had not met since last month and would be meeting again in February to continue its review and to firm up its recommendations relating to Article VIII.

### *Judicial Branch and Administration of Justice*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, reported that the committee met in December, at which time it heard presentations from two county prosecutors in regard to how grand juries conduct hearings. She said the committee has been generally reviewing how grand juries are conducted, particularly trying to find if there are measures the committee could propose that might increase public confidence in the grand jury

system. She said the committee previously heard from scholars about the role of the grand jury, and heard about how grand juries are conducted in other states.

*Constitutional Revision and Updating Committee*

Dennis Mulvihill, reporting as chair of the Constitutional Revision and Updating Committee, said the committee had not met since the last Commission meeting, but would be meeting later in the day to continue its review and discussion of possible changes to the statutory initiative procedure.

*Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee would be meeting later in the day to hear a first presentation of a report and recommendation on Congressional redistricting, a topic that has been discussed in numerous meetings. He indicated the committee is considering a constitutional amendment that would reform Ohio's method of drawing Congressional districts.

**Reports and Recommendations:**

*Article I, Section 20 (Powers Reserved to the People)*

Co-chair Tavares recognized Jeff Jacobson, vice-chair of the Bill of Rights and Voting Committee, who provided a second presentation of a report and recommendation issued by the committee on Article I, Section 20 (Powers Reserved to the People). Mr. Jacobson explained that the report and recommendation was described at the last meeting by the committee chair, Richard Saphire. Mr. Jacobson indicated that the committee is recommending no change to the provision based on its conclusion that the powers not given directly to government in the constitution should remain with the people.

Co-chair Tavares asked for public comment on the report and recommendation. There being none, she entertained a motion by Mr. Jacobson to adopt the report and recommendation, which motion was seconded by Mark Wagoner. Co-chair Tavares then asked if Commission members wished to discuss the report and recommendation, which they did not.

Co-chair Tavares then called for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Bell – absent  
Brooks – yea  
Clyde – yea  
Cole – yea

Coley – yea  
Cupp – yea  
Curtin – yea  
Davidson – absent  
Fischer – absent  
Gilbert – absent  
Jacobson – yea  
Jordan – yea  
Kurfess – absent  
Macon – absent  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Readler – yea  
Saphire – absent  
Sawyer – absent  
Skindell – absent  
Sykes – yea  
Taft – yea  
Talley – absent  
Trafford – yea  
Wagoner – yea

The motion passed unanimously, by a vote of 22 in favor and none opposed, with ten absent.

*Article V, Section 4 (Exclusion from Franchise for Felony Conviction)*

Co-chair Tavares then recognized Mr. Jacobson for a second presentation of a report and recommendation for Article V, Section 4 (Exclusion from Franchise for Felony Conviction). Mr. Jacobson explained that Article V, Section 4 gives the General Assembly the power to exclude from the privilege of voting, as well as from being eligible to hold public office, persons having a felony conviction. Mr. Jacobson indicated that the report and recommendation states the committee is recommending no change to the provision.

Co-chair Tavares asked for public comment on the report and recommendation. There being none, she entertained a motion by Mr. Jacobson to adopt the report and recommendation, which motion was seconded by Co-chair Amstutz. Co-chair Tavares then asked if Commission members wished to discuss the report and recommendation.

Representative Emilia Sykes said although Ohio has allowed convicted felons who are out of prison to vote, under the current version of Article V, Section 4 that right can be taken away if the General Assembly chooses. Rep. Sykes said she thinks it would be in the interest of the state to specifically ensure in the constitution that felons may return to voting once they are no longer incarcerated, in order to prevent the enactment of a law that would permanently disenfranchise ex-convicts.

Mr. Jacobson explained that the Bill of Rights and Voting Committee did not have an extensive conversation about the provision, but that it was the general opinion of the committee that it would be difficult to get the number of votes sufficient to change the provision. He said there may be a difference of opinion about whether to restore voting rights after incarceration, but the thought in the committee was that the system is not broken and so should not be changed.

Co-chair Amstutz, speaking as a member of the committee, added that the committee's sense was that Ohio is in a hybrid, or middle-of-the-road position. He said some states are more aggressive in disenfranchising while others are a little more open in their policy. He said Ohio's policy, which is set by the General Assembly, is among the more open policies, which is why the committee recommended retaining the constitutional language as it is.

Mr. Cole commented that the committee heard from Professor Doug Berman from the Moritz College of Law at the Ohio State University. He said Professor Berman, a leading expert on criminal sentencing, noted that Ohio is one of the more permissive states with respect to felony disenfranchisement, although this is not reflected in the constitutional language. Mr. Cole said Professor Berman's testimony gave the committee comfort in terms of keeping the language the way it is. Mr. Cole said he does not think there is support in the General Assembly for a change in the current statutes that would put Ohio in a different position.

Rep. Sykes said there is still the consideration that the General Assembly has been moving to make more crimes a felony, and she is not convinced this language is sufficient to keep things the way they are. She said, statistically, African Americans are disproportionately incarcerated, and as an African American she will not be supporting keeping the constitutional provision as it is.

Co-chair Tavares commented that this was an area in which she hoped there would be more discussion from the public's perspective. She said when it is considered how many people have a felony conviction, and the large number of people who potentially could be disenfranchised, it is concerning for the public to be vulnerable to the political mood. She remarked, "these are our constituents whether incarcerated or not." She said she would have liked the committee to have had a broader discussion, but that possibly there were not enough individuals coming forward from interested parties to provide input to the committee on this issue. She said she does not know if there was enough outreach to justice groups in the community in an effort to solicit their participation in the discussion.

Co-chair Amstutz said he agrees with Rep. Sykes as to bills that "put more felony weight into the justice system," but currently the Criminal Justice Recodification Committee, consisting of government and public representatives, is reviewing the criminal code, focusing on rehabilitation and reentry, and recommending changes to the criminal justice system. He said that focus works against legislative proposals that would increase incarceration. He said he has not noticed that voting rights have been recognized as needing to become more restrictive. He said the points about incarceration are well-taken, but they are under active consideration right now outside of the constitutional provision.

Mr. Mulvihill asked, if the Commission does not adopt the report and recommendation, the result would be that the report and recommendation goes back to the committee. He also wondered whether, if the Commission adopts the report and recommendation, the committee is precluded from revisiting Article V, Section 4.

Executive Director Steven C. Hollon explained that, if the Commission adopts a report and recommendation, no further action would be taken and the recommendation would be sent to the General Assembly. He continued that, if the Commission does not adopt it, then it could be subject to a motion to send it back to the committee or to take no further action.

Mr. Cole asked for a point of clarification, asking what happens if the Commission adopts a recommendation for no change and whether that recommendation gets sent to the General Assembly. Mr. Hollon said all reports and recommendations are being sent to the General Assembly once adopted by the Commission. Mr. Cole asked whether that would prevent the committee from reconsidering the issue.

Mr. Mulvihill commented that the Commission may outlast the Criminal Justice Recodification Committee, and there may be issues that come up after that group concludes its work. Mr. Mulvihill wondered whether, if the Commission adopts this report and recommendation, it is foreclosed from ever considering Article V, Section 4 again.

Mr. Hollon answered the Commission is foreclosed only in the sense that there are 259 sections of the constitution to review. However, he said he sees the point that if circumstances arise the Commission may want to have a committee re-engage in the review process.

Ms. Abaray asked whether the full Commission could hear presentations on this topic before voting. Mr. Hollon answered the Commission could decide to table the vote and have someone come before the Commission to make remarks or presentations.

Commission member Paula Brooks moved to table the vote, which was seconded by Rep. Sykes.

Co-chair Tavares then called for a roll call vote on tabling the vote on whether to adopt the report and recommendation for Article V, Section 4, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – abstained  
Beckett – no  
Bell – absent  
Brooks – yea  
Clyde – no  
Cole – no  
Coley – no  
Cupp – no  
Curtin – yea

Davidson – absent  
Fischer – absent  
Gilbert – absent  
Jacobson – no  
Jordan – no  
Kurfess – absent  
Macon – absent  
McColley – no  
Mills – no  
Mulvihill – yea  
Peterson – no  
Readler – no  
Saphire – absent  
Sawyer – absent  
Skindell – absent  
Sykes – yea  
Taft – no  
Talley – absent  
Trafford – yea  
Wagoner – no

The motion to table did not pass, by a vote of 13 opposed, eight in favor, and one abstaining, with ten absent.

Commission member Herb Asher noted that Article V, Section 4 only says that the General Assembly has the ability to adopt public policy. He said the concerns raised are public policy questions for the General Assembly, unless the constitutional provision is to become a complicated legislative provision that tries to cover all situations. He said he does not think that is possible. He said the provision simply says this is a public policy issue that the General Assembly will control.

Mr. Cole agreed, saying that the committee understood this to be a provision that empowers the General Assembly to make determinations about voting based on the fact of a felony conviction. He added current public policy makes Ohio among the most progressive states in this area. He said one thing the committee talked about was, if the constitution were to undertake that quasi-legislative effort, how generally would the rules need to be specified in the constitution, and is that more appropriate as a statutory endeavor. In response to the concerns of Rep. Sykes, Mr. Cole said the committee also considered and discussed the racial impact of felony disenfranchisement provisions.

Mr. Mulvihill asked whether, if circumstances change, the Commission could address this subject again regardless of the vote. Mr. Hollon said there is nothing in the Commission's Rules of Procedure and Conduct to prohibit that.

Ms. Brooks said it is important that the Commission has the option to reconsider this issue at a future time.

Sen. Coley commented that, according to the rules, any member who votes yes for the motion can, at a later date, move to reconsider the subject, so long as the motion passes.

Mr. Jacobson commented regarding the importance of keeping the constitutional language more general. He noted that, in enacting law, the General Assembly has the ability to consider specifically which felony convictions permanently remove one's ability to run for public office, and to provide detailed statutes regarding this. He said, in contrast, if the constitution were changed to state that voting rights and office eligibility are always restored, it would impact a situation involving a legislator convicted of bribery, for example. He said the constitution would contain a blanket statement, with no exceptions, even where public policy might favor eliminating the ability of that legislator to run for office. Mr. Jacobson said the Commission should not write specific rules in the constitution because that is the role of the General Assembly. He said, "we cannot decide we are going to start becoming the legislature on this."

Co-chair Amstutz said he is comfortable with the work done by the committee. He added that there is a broader justice issue here, however, that he would suggest be taken up by the Judicial Branch and Administration of Justice Committee. He said that committee is already looking at grand juries, so this concern fits into that review and would be a place to continue the conversation. He said he would also agree that the Commission can take up a settled issue if necessary, but there might be other ways to raise the issue.

There being no other questions or comments, Co-chair Tavares then called for a roll call vote on whether to adopt the report and recommendation recommending no change to Article V, Section 4, which was as follows:

Co-chair Tavares – no  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Bell – absent  
Brooks – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Cupp – yea  
Curtin – yea  
Davidson – absent  
Fischer – absent  
Gilbert – absent  
Jacobson – yea  
Jordan – yea  
Kurfess – absent  
Macon – absent  
McColley – yea  
Mills – yea

Mulvihill – yea  
Peterson – yea  
Readler – yea  
Saphire – absent  
Sawyer – absent  
Skindell – absent  
Sykes – no  
Taft – yea  
Talley – absent  
Trafford – yea  
Wagoner – yea

The motion to adopt the report and recommendation passed by a vote of 20 in favor, two opposed, with ten absent.

Co-chair Tavares commented that the Commission needs to look at the constitution in a broader context, noting that there are provisions that negatively and disproportionately impact racial and ethnic communities. She added, where the law does so, the state needs to act to address it. She said “we need to represent all constituents and ensure the law is fair to all.”

#### **Executive Director’s Report:**

Co-chair Tavares then recognized Mr. Hollon for his report. Mr. Hollon noted that the legislative members had reappointed the 20 public members, and that he will be circulating a letter to the public members officially notifying them of their reappointment.

#### **New Business:**

Co-chair Tavares asked if anyone had new business for the Commission.

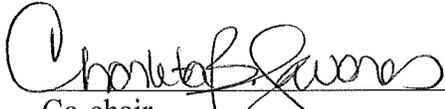
Ms. Abaray proposed that the Commission have a process that would allow it to request and hear presentations on reports and recommendations before voting on them. She said the Commission does not have the benefit of the information considered by the committees, so that it would be helpful to have direct presentations to the Commission. Co-chair Tavares indicated that if testimony is requested at the time a report and recommendation is subject to a first presentation, that request should be accepted. Sen. Coley noted that Commission members also may attend committee meetings as public spectators to hear presentations there.

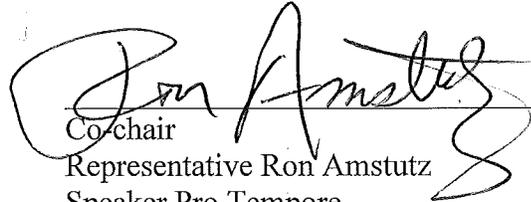
#### **Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 12:00 p.m.

**Approval:**

The minutes of the January 14, 2016 meeting of the Commission were approved at the March 10, 2016 meeting of the Commission.

  
Co-chair  
Senator Charleta B. Tayares  
Assistant Minority Leader

  
Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, MARCH 10, 2016

#### **Call to Order:**

Co-chair Ron Amstutz called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:34 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Asher, Bell, Clyde, Cole, Coley, Cupp, Curtin, Davidson, Fischer, Gilbert, Jacobson, Jordan, Kurfess, McColley, Mulvihill, Peterson, Sapphire, Skindell, Sykes, Taft, Talley, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the January 14, 2016 meeting of the Commission were reviewed and approved.

#### **Subject Matter Committee Reports:**

##### *Education, Public Institutions, and Local Government Committee*

Ed Gilbert, vice-chair of the Education, Public Institutions, and Local Government Committee, reported the committee postponed a second reading of a report and recommendation for Article VI, Section 3, relating to local school boards. He said the committee has been considering Article VI, Section 4, dealing with the state board of education and the state superintendent of public instruction. Mr. Gilbert said the committee has heard from William Phillis, who advocated for a return to an all-elected state board of education membership, as well as from Tom Gunlock, current president of the state board, who expressed his belief that the current system is not working. Mr. Gilbert said the committee heard from eight presenters on the topic at its February meeting. He said the committee will continue its discussion next month in order to reach a decision on what to recommend regarding the provision.

### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee was scheduled to meet in February, but there was a request to postpone the meeting for a month to allow testimony by the treasurer's office. Mr. Cole said the committee is scheduled to meet later in the afternoon, at which time he expects the committee to have a first presentation of a report and recommendation on obsolete provisions in Article VIII related to general obligation bonds. He said he hopes to bring the report and recommendation forward at the next meeting of the full Commission.

### *Judicial Branch and Administration of Justice Committee*

Patrick Fischer, vice-chair of the Judicial Branch and Administration of Justice Committee, reported that the committee has been examining the role of the grand jury system. In that regard the committee has heard two presentations by Sen. Sandra Williams, and presentations by Professor Gregory M. Gilchrist, State Public Defender Tim Young, and two county prosecutors. He said the committee has engaged in discussion about possible changes to the system. Judge Fischer said some of the changes being considered could be done nonconstitutionally, but the committee has been examining other state systems, including New York and Hawaii.

### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, said earlier in the day the committee took up the issue of Article I, Section 6, which prohibits slavery and involuntary servitude. He said the committee will continue to discuss the issue at its next meeting. He said the committee also voted to issue a report and recommendation for Article V, Section 6, relating to mental capacity to vote. Mr. Saphire said the committee expects to begin a review of Article V, Section 1 (Qualifications of an Elector) at its next meeting, as well as considering the issue of electronic privacy.

### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, reporting as chair of the Constitutional Revision and Updating Committee, said the committee is looking at the statutory initiative, the constitutional initiative, and the referendum process. He said the current focus is on the statutory initiative, and thanked staff for providing research and guidance on this topic. Mr. Mulvihill said the committee is reviewing potential redrafts of Article II, Sections 1b and 1g, and is discussing removing the supplementary petition requirement, raising initial signature requirement from three percent to five percent, and providing a three-year "safe harbor" provision to provide temporary protection to initiated statutes. Mr. Mulvihill said he anticipates the committee will next address the constitutional initiative process.

### *Legislative Branch and Executive Branch Committee*

Reporting on behalf of the Legislative Branch and Executive Branch Committee, Executive Director Steven C. Hollon said last Fall the committee considered the single subject rule, but

after passage of Issue 1 (legislative redistricting) in November, the focus turned to the issue of Congressional redistricting. He said, at its January 14, 2016 meeting, the committee heard and discussed a first presentation of a report and recommendation on the issue. The committee then held a special meeting on February 4, 2016, at which it considered approving the report and recommendation as proposed. However, before the vote, the committee created a four-person subcommittee to look further into the details of the proposed amendment. The subcommittee, consisting of Fred Mills, Paula Brooks, Senator Charleta Tavares, and Representative Robert McColley, met on March 9, 2016. At the meeting, Commission member Jeff Jacobson and Bethany Sanders, legal counsel for the Ohio Senate Democratic Caucus, updated the subcommittee on discussions that had taken place on the issue and what progress had been made. Mr. Hollon said the subcommittee will continue its work and will bring a full report back to the Legislative Branch and Executive Branch Committee meeting on April 14, 2016, noting that, at this stage the subcommittee seemed positive and hopeful that a consensus could be reached on the issue of Congressional redistricting.

#### **Executive Director's Report:**

Co-chair Amstutz then recognized Mr. Hollon for his report. Mr. Hollon noted that the committees have been very busy in the past month, and that staff appreciates the guidance that chairs provide in the planning process. Mr. Hollon introduced Nick Adair and Lee Matheson, both law students at the Moritz College of Law at The Ohio State University, who are assisting the Commission this semester as legislative clinic interns.

#### **New Business:**

Co-chair Amstutz noted the Commission has been discussing whether to hold a meeting in other places in the state, and invited suggestions by committee chairs in this regard.

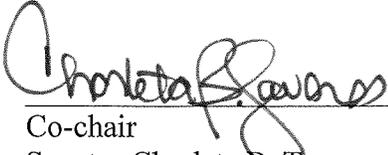
Mr. Saphire expressed compliments to staff for all the hard work, memoranda, and discussions that have been provided to assist his committee. Co-chair Amstutz added that staff support is exceptional, and thanked staff for making the Commission's work more productive and on target.

#### **Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 1:57 p.m.

**Approval:**

The minutes of the March 10, 2016 meeting of the Commission were approved at the April 14, 2016 meeting of the Commission.



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Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



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Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, APRIL 14, 2016

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:39 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Asher, Beckett, Brooks, Clyde, Cole, Coley, Cupp, Curtin, Fischer, Gilbert, Jacobson, Jordan, Kurfess, McColley, Mills, Mulvihill, Peterson, Readler, Sapphire, Sawyer, Skindell, Sykes, Taft, and Trafford in attendance.

#### **Approval of Minutes:**

The minutes of the March 10, 2016 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Kathleen Trafford, chair of the Coordinating Committee, reported that earlier in the day the committee took up a report and recommendation from the Bill of Rights and Voting Committee on Article V, Section 6 (Mental Capacity to Vote). Complimenting both the presentation by Richard Sapphire and the report and recommendation of his committee, Ms. Trafford noted the role of the Coordinating Committee is to review form rather than substance. She said her committee unanimously approved the report and recommendation, which she said is now ready to be considered by the full Commission.

#### **Subject Matter Committee Reports:**

##### *Education, Public Institutions, and Local Government Committee*

Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, reported the committee met that morning to begin its review of Article VI, Section 6, relating to

the Ohio Tuition Trust Authority, as well as to further discuss Article VI, Section 4, providing for a state school board and appointment of a state superintendent of public instruction. He said the committee heard a presentation regarding Ohio's college savings plans, as well as hearing a presentation by the Ohio Education Association relating to the selection and makeup of the state school board. With regard to Article VI, Section 4, he said the committee has heard significant testimony over the past several meetings, and has a sense the state board could be functioning in a better capacity. Mr. Readler noted the committee is considering a change that would empower the legislature to better equip the state board to address modern educational concerns. He said the committee is not near a proposal, but he is confident members can agree to something in the future.

#### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported the committee has now had a second reading and vote on a report and recommendation addressing sections of Article VIII specifically providing for bonding authority that has now lapsed. He said the committee unanimously voted to issue that report and recommendation, and had a first reading of two other reports and recommendations relating to Article VIII, Sections 1 through 3, and Sections 7 through 11. He said because all three reports and recommendations are interrelated, the committee's current plan is to present them as a package. He said the committee will have a special meeting next month in order to have a second reading and potentially vote on the two remaining reports and recommendations.

#### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported the committee will meet next month, at which time he expects the committee to begin its review of Article V, Section 1, relating to the general qualifications for a person to be an elector in Ohio. He said he also expects the committee to begin considering whether to provide a right to privacy in the Ohio Constitution.

#### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, reporting as chair of the Constitutional Revision and Updating Committee, said the committee has not met since last month, and so his March 2016 report will stand.

#### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said his committee would be meeting later in the day to continue its consideration of a proposal to reform the Congressional redistricting process. He said the committee would not be voting on a report and recommendation yet, but that there continues to be progress in the discussions of interested parties, both officially in a subcommittee, and in a working group. He said he is cautiously optimistic that the committee will be able to issue a report and recommendation, but does not have a time frame. He said the committee also would be reviewing an outline of how to address all the other provisions in Article II. He said he expects the committee will be able to start tackling the rest of Article II as it moves forward.

## **Reports and Recommendations:**

### *Article V, Section 6 (Mental Capacity to Vote)*

Co-chair Tavares recognized Richard Saphire, chair of the Bill of Rights and Voting Committee, who provided a first presentation of a report and recommendation issued by the committee on Article V, Section 6 (Mental Capacity to Vote). Mr. Saphire reviewed the contents of the report and recommendation, explaining the history of the provision, which, in its current form, disenfranchises “idiots” and “insane persons.” Mr. Saphire said the committee easily reached consensus that those descriptors were outdated and offensive, but members were divided on whether to retain any provision disqualifying mentally impaired voters, and also were divided on what replacement language should say. Mr. Saphire said the majority of the committee wanted to emphasize that, if disenfranchisement occurs, it must be as a result of procedures enacted by the General Assembly. Thus, he said, a majority of the committee agreed that Article V, Section 6 should be repealed and replaced by language stating:

The General Assembly shall provide that no person who has been determined under law to lack the mental capacity to vote shall have the rights and privileges of an elector during the time of incapacity.

Co-chair Tavares thanked Mr. Saphire for his report, asking for public comment. There being none, she then asked for discussion by Commission members.

Senator Michael Skindell, a member of the Bill of Rights and Voting Committee, commended the committee for spending “an incredible amount of time” on the issue, specifically recognizing committee members Karla Bell and Jeff Jacobson, as well as Mr. Saphire. However, he emphasized, the committee’s vote was not unanimous, a fact that should have been reflected in the report and recommendation. He said two committee members were absent for the vote, him being one of them for the reason that his presence was required at a Senate committee meeting. He said four members had concerns about the final outcome of the committee’s deliberations, and would like the opportunity to present a dissenting statement.

Commission member Ed Gilbert, also a member of the Bill of Rights and Voting Committee, said he echoes the concerns expressed by Sen. Skindell. He said he does not think the phrase “under law” in the committee’s proposed language is sufficiently clear. He also questioned the meaning of the phrase “during the time of incapacity.” He said he agrees with the recommendation of Michael Kirkman, executive director of Disability Rights Ohio, who had presented to the committee, which was that Article V, Section 6 should be repealed without replacement language. Mr. Gilbert also questioned why the report and recommendation did not discuss a conflict with the Americans With Disabilities Act.

Commission member Chad Readler noted the hard work of the committee that is apparent in the content of the report and recommendation, but asked why the committee chose to require the General Assembly to act, noting such language generally is not needed.

Mr. Saphire answered that a similar question arose in the Coordinating Committee’s review of the report and recommendation, and that he does not necessarily disagree. However, he said, the

committee, in part, was trying to draft language that would mirror Article V, Section 4, which states that “The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of a felony.”

Commission member Doug Cole, also a member of the Bill of Rights and Voting Committee, noted that if the introductory part of the proposed language were stricken, members of the committee were concerned that it would be interpreted as leaving the decision solely to the courts rather than requiring a statutory framework for disenfranchising.

Mr. Readler asked “wouldn’t judicial structure track statute?”

Mr. Cole answered that the goal was to ensure the provision is not self-executing, so that there would be a role for the General Assembly to play in passing statutes.

Mr. Readler said he is more concerned about consistency throughout the constitution.

Commission member Jeff Jacobson, also a member of the Bill of Rights and Voting Committee, said the committee was trying to avoid the conclusion that only a court could decide what constitutes mental incapacity to vote, instead wanting to allow the General Assembly to decide the appropriate process. He said, at the same time, they did not want to leave it open so that a poll worker could decide it. He said the purpose of using “under law” was not to say “under statutory law” but to avoid disenfranchisement being an arbitrary decision.

Mr. Saphire said the committee considered at least six other ways to phrase it, but the language in the report and recommendation was what a majority of the committee agreed to.

There being no further comments, Co-chair Tavares requested staff to research the question proposed regarding the use of “under law,” and the issue of whether the provision should require the General Assembly to enact law. She said the report and recommendation would be presented and discussed a second time at the next meeting on May 12, 2016. She asked Commission members whether there are any speakers on the topic they would like to hear from.

Sen. Skindell noted a concern of the full Commission from the beginning is how to ensure the public is fully aware of the activities of the Commission so as to have an opportunity to provide input.

Co-chair Tavares asked whether there are organizations that Sen. Skindell recommends be invited to give comment. Sen. Skindell said he would give the question some thought and report back.

Representative Bob Cupp asked whether the report and recommendation lists the various formulations of the language that were considered by the committee. Steven C. Hollon, executive director, said the report and recommendation does not provide that information but that it could be disseminated to all of the Commission members by electronic mail.

Mr. Gilbert noted there are large organizations that the Commission should reach out to for input on this question. He observed that Mr. Kirkman had come to the committee meeting several times, and may have additional comments.

Commission member Charles Kurfess wondered if there should be some reference in Article V, Section 1 to Section 6 because, taking Section 1 at face value, there is some inconsistency between the two sections. He added he has a preference toward dealing with the issue in a positive rather than a negative way, thus making the presumption be that all persons over age 18 have the ability to vote, and that all persons having the mental capacity can vote, rather than that persons without the mental capacity cannot vote.

Related to Mr. Kurfess' comment, Mr. Cole noted that Article V, Section 1 creates a background rule, and then Section 6 carves out an exception. He said it is hard to state Section 6 positively because the positive rule is that everyone can vote. He said one concern is that if the background is everyone can vote, and there is no rule, then the mentally incapacitated can vote.

Mr. Jacobson said committee members "wore ourselves down looking for better alternatives." He said they had some principles on which there was consensus, and they were trying to draft according to that. He asked whether, for issues like this one, whether it is fruitful to have discussions in the Commission in which alternative language is considered.

Commission member Patrick Fischer, also a Bill of Rights and Voting Committee member, said all the issues were raised and discussed extensively in the committee, which is where that discussion belongs. He said "this commission cannot become a committee of the whole each time we bring a topic before you." He observed the current language needs to change, but that the Commission could spend another 16 to 18 months debating the same thing. He emphasized the importance of moving forward, one way or another.

Mr. Saphire agreed with Judge Fischer, saying all the points raised were discussed in the committee. He said there was plenty of opportunity to recommend people to come talk. He said the committee's responsibility is to give a proposal reflecting its best judgment, that the Commission then decides if it wants to accept the proposal. He said if the Commission wants to send the report and recommendation back, that is its prerogative, but he cannot say that the committee would come up with anything different or better than what is currently before the Commission.

#### **Executive Director's Report:**

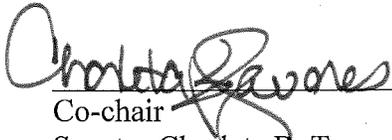
Co-chair Tavares then recognized Mr. Hollon for his report. Mr. Hollon said the Commission has continued its efforts to publicize its activities around the state. He said, in March, Commission member Mark Wagoner, Senior Policy Advisor Steven H. Steinglass, Justice Judith Ann Lanzinger of the Supreme Court of Ohio, and Mr. Hollon presented at the University of Toledo College of Law. He said an additional March presentation was given by Mr. Saphire, Governor Bob Taft, and Mr. Hollon at the University of Dayton. He said both of these presentations were well-received.

**Adjournment:**

With no further business to come before the Commission, the meeting adjourned at 2:27 p.m.

**Approval:**

The minutes of the April 14, 2016 meeting of the Commission were approved at the May 12, 2016 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, MAY 12, 2016

#### **Call to Order:**

Co-chair Ron Amstutz called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:38 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Abaray, Asher, Beckett, Bell, Clyde, Cole, Coley, Cupp, Curtin, Fischer, Gilbert, Jacobson, Jordan, Kurfess, McColley, Mills, Mulvihill, Readler, Sapphire, Sawyer, Skindell, Sykes, Taft, Talley, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the April 14, 2016 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Organization and Administration Committee*

Mark Wagoner, chair of the Organization and Administration Committee, provided the Ohio Constitutional Modernization Commission's third quarter budget report. He indicated the Commission has paid out 67 percent of its annual budget of \$600,000. With \$150,000 carried over from the last fiscal year, Mr. Wagoner said the Commission only expended a little more than 54 percent of its budget. He said the greatest percentage of spending was for supplies and maintenance, with \$24,000 out of \$34,000 spent. He said the least percentage of spending was for payroll, at 66 percent, roughly \$318,000. He said the Commission is \$44,000 under budget in the first three quarters, and \$190,000 under budget when including the carry over. Mr. Wagoner commended Steven C. Hollon, executive director, and staff for "running a tight ship." He said Mr. Hollon presented on the Commission's work before the Sunset Review Committee, and that his presentation was well-received.

## **Subject Matter Committee Reports:**

### *Education, Public Institutions, and Local Government Committee*

Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, reported the committee met last month, discussing Article VI, Section 4, relating to the state board of education and superintendent of public instruction. He said the committee may have recommendations for change and will take that subject up again at its next meeting. He noted also, at the next meeting, Senator Bill Coley will present regarding casinos in the state constitution.

### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported the committee held a special meeting that morning, at which it approved two reports and recommendations. He said the committee now has three reports and recommendations regarding Article VIII to go to the Coordinating Committee for its approval. He said the committee is nearing the end of its work on Article VIII and will be turning to the other articles in the coming months.

### *Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, said her committee did not meet last month, but next month has arranged to hear a speaker on the topic of the grand jury system in Hawaii, which has aspects that may be of interest in the committee's consideration of whether to recommend changes to Ohio's system.

### *Bill of Rights and Voting Committee*

Richard Sapphire, chair of the Bill of Rights and Voting Committee, reported the committee met earlier, and began its review of Article V, Section 1, relating to the qualifications of an elector. He said the committee heard presentations by Carrie L. Davis, with the League of Women Voters of Ohio, and by Representative Alicia Reece. He said the committee will continue that discussion at its next meeting.

### *Constitutional Revision and Updating Committee*

Dennis Mulvhill, reporting as chair of the Constitutional Revision and Updating Committee, said the committee is continuing its work on the statutory initiative, with a goal of encouraging citizens who want to initiate law to take the statutory, rather than the constitutional, route. He said the committee is working on rewrites of Article II, Sections 1b and 1g, removing the supplemental petition requirement and resolving conflicts if multiple similar petitions result in ballot issues. He said the committee will progress to addressing the constitutional initiative, and is picking up steam and may be reaching consensus soon on these issues.

*Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said his committee would be meeting later to again discuss Congressional redistricting and get an update on efforts to reform that process. He said the committee next would be beginning a methodical review of other assigned sections of Article II.

**Reports and Recommendations:**

*Article V, Section 6 (Mental Capacity to Vote)*

Co-chair Amstutz then recognized Richard Saphire, chair of the Bill of Rights and Voting Committee, for a second presentation on Article V, Section 6 (Mental Capacity to Vote).

Mr. Saphire reviewed the contents of the report and recommendation, which currently provides language disenfranchising “idiots” and “insane persons.” Mr. Saphire said the committee agreed those descriptors are offensive, but members engaged in extensive discussion regarding whether the constitution should include a provision disqualifying mentally impaired voters, and whether, if such a provision is retained, what the replacement language should say. Mr. Saphire said the majority of the committee wanted to emphasize that, if disenfranchisement occurs, it must be as a result of procedures enacted by the General Assembly. Thus, he said, a majority of the committee agreed that Article V, Section 6 should be repealed and replaced by language stating:

The General Assembly shall provide that no person who has been determined under law to lack the mental capacity to vote shall have the rights and privileges of an elector during the time of incapacity.

Co-chair Amstutz then recognized Senator Michael Skindell, a member of the Commission, who submitted written comments in opposition to the report and recommendation on behalf of himself and Representative Kathleen Clyde.

Sen. Skindell indicated that he and Rep. Clyde agree that the reference to “idiots” and “insane persons” in the section should be repealed, but said they oppose the language recommended by the Bill of Rights and Voting Committee. He said, by denying such persons “the privileges of an elector,” the section not only denies an individual of the fundamental right to vote but also denies individuals all other privileges as an elector. He said Section 6 not only denies the fundamental right to vote, but the ability to run as a candidate, be a signatory on a candidate or issue petition, or to hold public office.

Sen. Skindell noted the contemporary view of the United States Supreme Court is that the right to vote is not to be abridged by the states except in rare circumstances, and so the denial of this right can only be accomplished through laws that are narrowly drawn to serve a compelling state interest.

Thus, he said, there is no need to replace the existing language. Citing Ohio Revised Code Chapter 3599, he said statutory law makes it illegal for a person to vote for another who cannot knowingly and voluntarily cast a vote. Sen. Skindell indicated that if the related statutory

provisions are not sufficient to protect against someone voting for another, the General Assembly can strengthen those provisions without causing conflict with the Ohio Constitution. He indicated that some 15 states do not have constitutional provisions disenfranchising such persons, and that he and Rep. Clyde prefer that the section be repealed and not replaced.

Sen. Skindell said if the Commission's consensus is to replace the existing language, then it should only be replaced with a requirement that disenfranchisement only occur after an adjudication. He said this is the approach taken by the Constitutional Revision Commission in 1975, which recommended the following language:

The General Assembly shall have power to deny the privileges of an elector to any person adjudicated mentally incompetent for the purpose of voting only during the period of such incompetency.

Sen. Skindell said, at the time, the Commission opined that "adjudication" was an adequate safeguard to ensure that people were not improperly denied the right to vote, but noted that some scholars opine that such an adjudication provision cannot withstand strict scrutiny.

Co-chair Amstutz then opened the floor for discussion by Commission members.

Commission member Ed Gilbert said he joins with Sen. Skindell on this alternative course of action. He said he was vocal in the committee, saying that the provision should be repealed, but as a compromise, he would agree to the replacement language Sen. Skindell proposed.

Commission member Janet Abaray asked what was the thought of the committee if the proposed section were adopted but the General Assembly would fail to act to create legislation on this issue. Commission member, and Bill of Rights and Voting Committee Vice-chair, Jeff Jacobson said in that case it would not be possible to disenfranchise anyone. He said that is why the committee used the phrase "under law" in its recommendation. He said there are plenty of provisions in the constitution that give the General Assembly the right to decide, with the idea that a court can come along and invalidate that provision. The General Assembly has to write a law and only under that law could someone be disenfranchised. He said "nothing in what we are proposing changes that, but it does remove the offensive language."

Commenting on Ms. Abaray's question, Mr. Saphire said that same question was directed to him by the Coordinating Committee, saying he agrees with Mr. Jacobson's analysis. He said it is his understanding that, as things now stand, the only way someone can be disenfranchised is through a procedure established for involuntarily committing someone to a mental institution. He said, to the extent that is true, then it is the case that if the General Assembly does not act there is no self-executing provision.

Sen. Skindell said the focus should not be on the person with the disability. He said, as mentioned by Michael Kirkman, executive director of Disability Rights Ohio, the focus should be on the basis of voting. He said, if a person is at such a level of mental incapacity that another must vote for him, he is no longer voluntarily voting. Sen. Skindell said the focus of the discussion is to repeal the archaic language, and then to make sure someone is not improperly voting for someone else. But, he said, "we already have laws about that. If the General

Assembly needs to make adjustments it should be done that way.” He added, if someone fills out a ballot for such a person, that is election fraud. He said “we should ensure that all people have a role in our process of democracy.”

Mr. Jacobson commented that where this issue is most likely to arise is not in the polling place, but when pollworkers go to nursing homes to assist residents. He said, as a former party chairman he got reports that generally one representative from each party would try their best to assist the person in casting a vote, including asking questions and trying to record what the answers to the questions were. To the extent to which elections can be contested, the pollworkers would disagree about the response of the voter. He said “it is a messy part of democracy, but what this proposed replacement section would do is make sure the pollworkers can’t decide on their own that the person is not capable of voting.” He noted the concerns raised by Sen. Skindell are not the issue. He said this is not a situation of someone attempting to cheat but with a situation in which the pollworkers are deciding what to do. He said the committee’s recommended language “lets us get this unhappy issue out of Ohio’s constitution in a way that allows for a compromise going forward.”

Commission member Karla Bell said, to Mr. Jacobson, that he had indicated the pollworkers could be the ones to determine mental capacity. But, she said there is no limitation in this language; the General Assembly could specify that pollworkers could make that determination.

Mr. Jacobson said the General Assembly could write all kinds of laws, but the General Assembly is not the ultimate arbiter of that question. He said the committee is saying that, like other provisions of Ohio law, the General Assembly should decide and let the courts determine if the way the law is written protects people’s rights.

Ms. Bell said the only way there is judicial resolution is if a pollworker disenfranchises and the voter is willing to sue. She said, it puts the burden on the person denying the vote.

Mr. Jacobson said there is already this question in election law, and there is ongoing litigation about these types of issues.

Commission member Pat Fischer said “I beg you, let’s move forward. The language is a compromise; it is a compromise that works” He asked “what we are doing if we continue to debate this word for word? The language from the 1970s group has sat there for 40 years, if it was so great, why has nothing happened?” He said the current language is insulting, and must be removed, but has to be replaced with something. He said “If we can’t push through our first legitimate change after that much scrutiny then we are not doing a very good job. I heartily ask you to support the report and recommendation of the committee.”

Commission member Charles Kurfess noted there are two different approaches in the current recommendation versus the recommendation from 40 years ago. He said the present language attempts to require action by the General Assembly, while the 1970s language says legislative action is discretionary. He asked whether, under the current recommended language, the legislature could simply say as a matter of law those who are patients or residents are determined to be incapable of voting.

Ms. Bell answered that, presently, Ohio law provides that if someone has been committed involuntarily, that person's right to vote cannot be eliminated without a separate determination that they are incapable of voting. That finding itself is not enough.

Mr. Saphire agreed, saying, as a 40-year civil liberties lawyer, if the legislature did that it would be clearly unconstitutional.

Mr. Jacobson said Ohio has had this provision for 100 years or more, but there appear to be no cases that have ever arisen where people have raised objections to the process or been deprived or come to the level where they had to deal with a deprivation of rights. He said, while this is a good theoretical argument, the issue of how to fix it is a solution in search of a problem. He concluded the problem is the offensive language.

Representative Emilia Sykes commented that if a recommendation is not the position or the goal of the full Commission, "it is not fair to say just because a committee has done work the Commission has to rubber stamp it." She added, the goal is to get rid of offensive language but it is also offensive to remove someone's right to vote. She said, if this has not been an issue for over 100 years, why not get rid of the language?

Mr. Gilbert said he joined Rep. Sykes in this statement.

Mr. Saphire said while he agrees with Rep. Sykes that the Commission is not bound by the committee's decision, from the committee's point of view this became a case of "the perfect becoming an enemy of the good." He said the committee spent hours on this, reviewing 15 or 20 different draft proposals. He said this is the best that the group can come up with; if the Commission can do better then do so.

Ms. Abaray asked whether, if this provision is repealed, would it be unconstitutional for the legislature to enact laws.

Mr. Saphire said yes, because Article V, Section 1 provides the only other definition of "qualifications of an elector."

Mr. Wagoner said the issue goes to an elector and not just to voting. He asked what the committee's consideration was regarding holding public office.

Mr. Saphire said this was discussed and is covered in the report and recommendation. He said he is not sure the committee reached a conclusive final assessment of it. He said, it is possible that if this provision is adopted and the General Assembly enacts a provision that is applied to disqualify a person from voting because of lack of capacity, if that person is also a public office holder someone may remove them from office.

Co-chair Amstutz said the proposed language provides the opportunity to put a conditional hold on the privileges of an elector as opposed to a disqualification. So, he said, he feels comfortable that the range applies to all the duties of an elector not just to voting.

Co-chair Tavares said those comments give her pause, since “you can’t take someone out of office and put them back in. If you said a person is no longer a qualified elector and all of those privileges go away, you may not know how long that period is.”

Commission member Herb Asher wondered, if the need for this provision is that, without it, the legislature would not be able to address the issue of voting, could the provision be limited to voting and not the broader “privileges of an elector.”

Mr. Wagoner noted that is what the 1970s Commission was proposing.

Mr. Jacobson disagreed that removing “privileges of an elector” would bring the current proposal in line with the 1970s recommendation. He said the issue was discussed in the committee, and that it was concluded that the phrase “privileges of an elector” was important to retain.

Sen. Skindell said he had asked Professor Wilson Huhn, when he presented to the committee, whether using the phrase “mental capacity to vote” broadened the category of individuals who are being excluded from the rights and privileges of an elector, as versus the words “idiots” and “insane persons.” He said Professor Huhn said that is a broader category, and that the provision would be adding people who could be disenfranchised. Sen. Skindell said Professor Huhn raised multiple times this impact of using the phrase “privileges of an elector.” Sen. Skindell said someone who loses the qualifications of an elector for a temporary amount of time would lose his public office, and could not regain that office when he regains that capacity.

Mr. Jacobson noted the Americans with Disabilities Act indicates a person could not be removed from office in that way.

Co-chair Amstutz thanked the Commission for its discussion and asked if there is a motion. Mr. Jacobson moved to adopt the report and recommendation for Article V, Section 6, with Judge Fischer seconding the motion.

Mr. Mills asked whether Commission members who have left the meeting have the ability to vote later under Commission rules. Co-chair Amstutz said he was not aware of such a rule, but said this could be decided later if the vote is close.

Co-chair Amstutz then called for a roll call vote, which was as follows:

Co-chair Tavares – nay  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Bell – nay  
Brooks – absent  
Clyde – nay  
Cole – absent  
Coley – yea  
Cupp – yea

Curtin – yea  
Davidson – absent  
Fischer – yea  
Gilbert – nay  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
Macon – absent  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – absent  
Readler – yea  
Saphire – yea  
Sawyer – nay  
Skindell – nay  
Sykes – nay  
Taft – yea  
Talley – nay  
Trafford – absent  
Wagoner – yea

Requiring a vote of 22 votes to pass, the motion failed, by a vote of 18 in favor, 8 opposed, with six absent.

Co-chair Amstutz said the motion did not pass and that the matter is not recommended at this time.

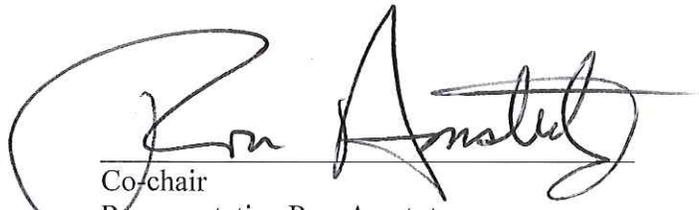
**Adjournment:**

With no further business to come before the Commission, the meeting adjourned at 2:53 p.m.

**Approval:**

The minutes of the May 12, 2016 meeting of the Commission were approved at the June 9, 2016 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, JUNE 9, 2016

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:54 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Abaray, Asher, Brooks, Clyde, Cole, Curtin, Davidson, Fischer, Jacobson, Jordan, Kurfess, McColley, Mills, Peterson, Sapphire, Sawyer, Skindell, Sykes, and Taft in attendance.

#### **Approval of Minutes:**

The minutes of the May 12, 2016 meeting of the Commission were reviewed and approved.

#### **Subject Matter Committee Reports:**

##### *Education, Public Institutions, and Local Government Committee*

Executive Director Steven C. Hollon, on behalf of Ed Gilbert, vice-chair of the Education, Public Institutions, and Local Government Committee, reported that the committee met earlier to hear presentations on Article VI, Section 5, relating to loans for higher education. Director Hollon reported that Rae Ann Estep, former director of the Ohio Student Aid Commission, and David Harmon, former director of the Ohio Student Loan Commission, suggested Section 5 has been supplanted by federal student loan programs. He said the committee would be hearing from more speakers on that topic at its next meeting, as well as having a presentation and possible vote on a report and recommendation for Article VI, Section 3, public school system and boards of education.

##### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee has issued three reports and recommendations that he will be presenting to the

Commission. He said the committee moved on to Article VIII, Sections 4, 5, and 6, regarding lending aid and credit, noting that those provisions involve the JobsOhio litigation for which he is counsel of record representing JobsOhio. He said the committee heard a presentation by bond counsel Gregory W. Stype regarding the history of those sections, noting that Mr. Stype is also representing JobsOhio in the ongoing litigation. Mr. Cole said the committee's plan is to hear from a variety of stakeholders regarding those sections to see if changes are warranted. He said the committee also heard a presentation from the state treasurer's office regarding whether to consider a constitutional provision that would assign debt issuance, reporting, and payment obligations to the treasurer. He said that topic is in relation to the recommendation to remove the sinking fund provisions, which is the subject of one of the reports and recommendations he will be presenting to the Commission.

#### *Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, reported that the committee will meet immediately after the Commission meeting to hear a presentation by Professor Thaddeus Hoffmeister from the University of Dayton School of Law. She said Prof. Hoffmeister will discuss possibilities for improving the grand jury process in Ohio, specifically focusing on a Hawaiian model that uses a grand jury legal advisor to assist the grand jury.

#### *Constitutional Revision and Updating Committee*

Co-chair Tavares indicated there would be no report from the Constitutional Revision and Updating Committee.

#### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that the committee would meet again in July to further discuss Article V, Section I regarding the qualifications of an elector, and would also discuss whether to recommend a right to privacy in the Ohio Constitution.

#### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee did not meet this month, but intends to continue its discussion of various subjects, including a thorough review of Article II relating to the legislative branch.

#### **Reports and Recommendations:**

Co-chair Tavares recognized Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, to provide a first presentation of three reports and recommendations relating to debt provisions contained in Article VIII.

Mr. Cole began by noting that the three reports and recommendations are interrelated. He said one difficulty the committee faced was that the sections of Article VIII tend to work together, requiring the committee to address the entire article together. He said, at the same time, there is a need to break down the reports and recommendations as to subject matter in order to make the topics more digestible for the reader.

*Article VIII, Sections 1, 2, and 3 (State Debt)*

Mr. Cole said the first report and recommendation was for Article VIII, Sections 1, 2, and 3, dealing with state debt. He described that those sections provide the basic structure regarding the issuance of state debt. He said the committee's recommendation is that Sections 1 and 3 be retained in their current form and that Section 2 be adjusted to remove reference to the sinking fund. Mr. Cole indicated the committee's plan is to leave the general framework the same regarding these three provisions. He said the sections arose out of the state's disastrous financial experience with canals and railways in the early 1800s.

Noting Section 1's debt limit of \$750,000, Mr. Cole said the committee did not want to increase the debt limit, but rather wished to keep the current system whereby the state goes to voters to obtain authorization for additional debt. He said the committee was hesitant to interfere with the status quo because it could affect the bond rating and the interest rates the state has to pay on debt. He said the idea was to "do no harm" unless there was some gain to be made by suggesting a change. Mr. Cole noted the report and recommendation describes speakers the committee heard from, including representatives from the treasurer's office, from the Office of Budget and Management (OBM), and from Professor Richard Briffault of Columbia University. He said the treasurer was in favor of modernizing the \$750,000 debt limit, but that the committee's consensus was that the current system was adequate and so wanted to stay the course.

Commission member Richard Saphire asked whether, if Article VIII, Section 1 were repealed, it would affect the state's ability to borrow money. Mr. Cole answered the issuance authority would go away, but that is the only general obligation other than the exceptions provided in Sections 2b, 2c, 2d, etc. Mr. Saphire asked what would be the argument for keeping the limit. Mr. Cole said he would want to confirm that because it was not a question that was posed. He said he does not believe it would have an impact. He said, to the extent the Commission wants the committee to consider the question, the committee could do so, but he would want more information.

Co-chair Ron Amstutz said it would be necessary to amend all the long list of Section 2 sections that hang on Section 1 if Section 1 were repealed.

*Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 18 (Authorization of Debt Obligations)*

Mr. Cole then introduced the committee's report and recommendation for Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and proposed Sections 2t and 18.

Mr. Cole said Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, and 2k are recommended for repeal because the debt issuance authority is used up, and the debt has been repaid. He said the committee recommends the addition of Section 18 to allow repayment despite the repeal if any debt is still outstanding. Mr. Cole indicated the committee is recommending that Section 2t be added to allow lease appropriation debt to be issued as general obligation debt. He said the goal was to remove the option not to repay that accompanies lease appropriation debt because the state will never exercise that option.

Mr. Cole then briefly described the purpose of each of the sections being recommended for repeal. He said all the sections, except for Section 2i, provide bonding authority that is fully used and all debt repaid. He noted removing these sections would greatly reduce the size of the Ohio Constitution, estimating that more than half the words in the constitution are in Article VIII. He said the committee wanted to have voters be able to understand the constitution, and that cluttering it up with inoperative provisions interferes with that goal.

Regarding preventing a future need for a similar clean up, Mr. Cole noted that in some states the framework requires going to the voters but the debt issuance authority does not end up being specified in the constitution. He said that system eliminates the need for clean up later, and said the committee may consider recommending an anti-obsolescence provision.

With regard to Section 2i, Mr. Cole indicated that section authorizes lease appropriation debt, but the committee wanted to switch to general obligation bonds. He explained lease appropriation debt is not backed by the state's full faith and credit. He said lease appropriation debt has an interest rate penalty in the market. Mr. Cole said Ohio has never defaulted on its loans, so having this option is not necessary. Thus, he said, the committee is recommending a new Section 2t allowing the General Assembly to authorize issuance of general obligation bonds instead of lease appropriation debt. He said this method would allow Ohio to capture the lowest interest rate. He said the committee was also recommending a new Section 18 that would allow old bonds to be redeemed if they should surface.

Mr. Saphire asked if the General Assembly has inherent authority to authorize the issuance of debt or if it requires a constitutional provision. Mr. Cole said a constitutional provision is required. He noted there is some cash flow debt power, but it does not extend across a biennium.

*Article VIII, Sections 7, 8, 9, 10, and 11 (Sinking Fund and the Sinking Fund Commission)*

Mr. Cole then presented the report and recommendation for Article VIII, Sections 7, 8, 9, 10, and 11, relating to the sinking fund and the sinking fund commission. He said the sinking fund commission consists of the five statewide officeholders, the governor, the secretary of state, the attorney general, the auditor, and the treasurer. He said the sinking fund commission has not met since 2008, although the treasurer still prepares a report. Mr. Cole said the state treasurer does all the tracking and correctly reports payment of debt. But, he said, the issuance obligation has been undertaken by the Ohio Public Facilities Commission (OPFC), which consists of the five statewide officers and the director of the Office of Budget and Management. He said the committee's recommendation is that because things have been working well with these functions

and the sinking fund commission is not meeting, the OPFC is doing what the sinking fund commission was doing, so the sinking fund provisions could go.

Mr. Cole continued that, as a general matter, all of the issuance authority is left to the General Assembly and is dealt with in statute. He said the committee did hear from the treasurer's office, which suggested that if the sinking fund provisions are removed, they should be replaced with a new constitutional provision that would assign issuance, reporting, and payment obligations in the constitution to the treasurer. He said this proposal is on the table for the committee to consider. He also noted there are various statutes that refer to the sinking fund as a constitutional construct; those statutes would need to be tweaked.

Commission member Charles Kurfess asked about the process for debt issuance, wondering if consideration was given to having the constitution provide for that same process but outside of amending the constitution. Mr. Cole said the committee discussed that topic and heard about that option from Professor Briffault. Mr. Cole said, however, there was some concern that making a change could harm the state's debt rating, and the committee expressed some sentiment that it is not altogether bad that the will of the voters is expressed in a formal final document. He noted some more-recent constitutional amendments do not include a sunset clause, but have ongoing debt issuance according to a final outstanding amount, thus eliminating an ongoing obsolescence problem. However, Mr. Cole said, there is nothing in these recommendations that would prevent considering that possibility in the future.

Mr. Cole concluded by thanking the staff, explaining the committee's review had been a difficult project for which staff had provided excellent support.

Co-chair Tavares asked if there were further questions or comments regarding the reports and recommendations. There being none, she thanked Mr. Cole for his presentation.

**Adjournment:**

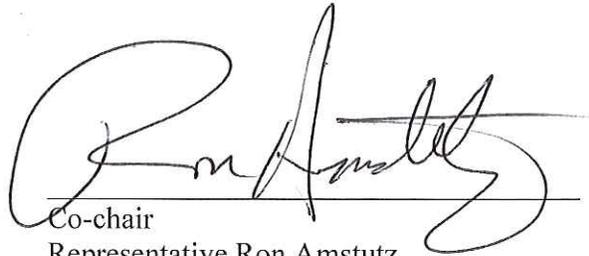
There being no further business to come before the Commission, the meeting adjourned at 2:40 p.m.

**Approval:**

The minutes of the June 9, 2016 meeting of the Commission were approved at the September 8, 2016 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, SEPTEMBER 8, 2016

#### **Call to Order:**

Co-chair Ron Amstutz called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:35 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Abaray, Asher, Beckett, Clyde, Coley, Cupp, Curtin, Davidson, Fischer, Gilbert, Jacobson, Jordan, Kurfess, Mills, Mulvihill, Readler, Sapphire, Sawyer, Skindell, Sykes, Taft, Talley, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the June 9, 2016 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Organization and Administration Committee*

Ed Gilbert, vice-chair of the Organization and Administration Committee, reported that the committee voted to approve a change to Rule 3.9 of the Ohio Constitutional Modernization Commission Rules of Procedure and Conduct that is intended to make it easier for the Commission to conduct business in the absence of a full complement of members. He said the change being recommended would be presented to the Commission for the first time later in the meeting.

#### **Subject Matter Committee Reports:**

##### *Education, Public Institutions, and Local Government Committee*

Chad Readler, Chair of the Education, Public Institutions, and Local Government Committee, reported that the committee heard presentations on two topics. First, the committee heard from

Senator Bill Coley on Article XV, Section 6, relating to casino gaming in Ohio. Mr. Readler said the committee also heard a presentation by Michael Kirkman, executive director of Disability Rights Ohio, on Article VII, Section 1, regarding Institutions for the Insane, Blind, and Deaf and Dumb. Mr. Readler said, at its next meeting, the committee will be entertaining additional reports and recommendations on Article VI, relating to education.

*Finance, Taxation, and Economic Development Committee*

Steven C. Hollon, executive director, reporting on behalf of Doug Cole for the Finance, Taxation, and Economic Development Committee, reported that the committee has issued three reports and recommendations that he will present to the Commission later in the meeting. Mr. Hollon said the committee would be meeting next month to continue its review of Article VIII sections relating to state debt.

*Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, reported that the committee would be meeting later in the day to continue its discussion of the grand jury procedure. She said the committee would be conducting a telephonic conference call with a grand jury legal advisor in Hawaii to learn about how that state conducts grand juries, and would also host Professor Thaddeus Hoffmeister from the University of Dayton School of Law on the topic of grand jury legal advisors. She said the committee hopes to conclude its review of the grand jury process and make a recommendation soon.

*Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, said the committee had not met since the last Commission meeting, but would be meeting in October and expects to present a recommendation soon.

*Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that, at its next meeting, the committee would continue its discussion of issues related to Article V, Section 1, regarding the qualifications of an elector.

*Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee will be meeting in October. He said, in the meantime, he is hopeful that the subcommittee on Congressional redistricting will meet. He said the committee would be continuing its discussion of Article II issues relating to the legislative branch.

## **Reports and Recommendations:**

### *Article VIII, Sections 1, 2, and 3 (State Debt)*

Co-chair Amstutz recognized Mr. Hollon for the purpose of providing a second presentation on a report and recommendation for Article VIII, Sections 1, 2, and 3, dealing with state debt. Mr. Hollon described the committee's recommendation to retain Sections 1 and 3 in their current form and to revise Section 2 to remove reference to the Sinking Fund. Mr. Hollon noted that the report and recommendation provides the historical background of Sections 1, 2, and 3, summarizes presentations by speakers related to the topic of state debt, and describes the committee's consideration of issues relating to Sections 1, 2, and 3. Mr. Hollon concluded that the report and recommendation expresses that Sections 1 and 3 should be retained in their current form, while Section 2 should be revised to remove reference to the Sinking Fund, replacing it with a more generic reference to "the state."

Commission member Herb Asher moved to adopt the report and recommendation for Article VIII, Sections 1 through 3, and Commission member Jo Ann Davidson seconded the motion.

Co-chair Amstutz asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Coley – yea  
Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
Mills – yea  
Mulvihill – yea  
Readler – yea  
Saphire – yea  
Sawyer – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Talley – yea  
Trafford – yea

The motion passed unanimously, by a vote of 25 in favor and none opposed, with seven absent.

*Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 18 (Authorization of Debt Obligations)*

Mr. Hollon introduced the committee's report and recommendation for Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and proposed Sections 2t and 18. Mr. Hollon said the report and recommendation indicates the Commission recommends that Sections 2b, 2c, 2d, 2e, 2f, 2h, 2k, and 2j be repealed for the reason that the bonds have been fully issued and paid off or the bonding authority has lapsed. Mr. Hollon continued that the report and recommendation also recommends that a new Section 18 be adopted to protect holders of any outstanding bonds or obligations issued under the sections being recommended for repeal. Mr. Hollon noted that the report and recommendation finally recommends the adoption of a new Section 2t that would authorize the issuance of general obligation bonds that could be used to refund obligations previously issued under the authority of Section 2i, and to issue new general obligation bonds for the purposes described in Section 2i. Mr. Hollon further described the historical background of the provisions, as noted in the report and recommendation, as well as summarizing the content the sections, prior review, related litigation, and various presentations heard by the committee. Mr. Hollon emphasized that the report and recommendation noted the repeal of these obsolete sections would reduce the length of the constitution by some 20 percent, making the document more readable and transparent.

Commission member Richard Saphire asked whether, if the subject provisions are repealed, the constitution would have to be renumbered. Mr. Hollon said that would not occur as Ohio does not require renumbering if constitutional provisions are repealed.

Commission member Janet Abaray asked for clarification as to the purpose of proposed Section 2t. Mr. Hollon indicated that, because Section 2i authorizes the issuance of revenue bonds and lease appropriation bonds, the committee wanted language to authorize the General Assembly to issue general obligation bonds for the purposes as mentioned in Section 2i so that the state could get away from lease appropriation bonds. He noted this issue is described more fully at page 8 of the report and recommendation.

Ms. Abaray asked whether Section 2t would require that new bonds have to go to the voters. Mr. Hollon answered that Section 2t authorizes the General Assembly to issue the lease appropriation bonds as general obligation bonds.

Co-chair Amstutz recognized audience member Kurt Kauffman, who is state debt manager for the Office of Budget and Management, to explain the purpose of proposed Section 2t. Mr. Kauffman said Section 2t is intended to take bonds already approved but authorized as lease appropriation credit under Section 2i, and allow the state to issue those bonds instead as general obligations, increase the credit rating, lower the interest costs, and thereby have interest saving on bonds that have already been approved by the voters, and for projects that would be authorized by future capital expenditure bills.

Mr. Readler noted that the report and recommendation, on page 4, states that the Constitutional Revision Commission in 1977 similarly proposed the repeal of some of these sections but that the measure lost at the ballot by 72 percent to 22 percent. He asked whether there is information about why the recommendation did not succeed.

Senior Policy Advisor Steven H. Steinglass answered that the 1970s proposal was part of a more comprehensive proposal that would have removed the role of the voters in approving future general obligation bonds. He said the 1970s proposal went much further than the proposal before the Commission. He emphasized this proposal, unlike the 1970s proposal, does not eliminate the voters from the process.

Ms. Abaray asked, if Section 2t is not going to allow the legislature to run up debt, whether the question still has to go back to the voters. Mr. Hollon said that is his understanding. Co-chair Amstutz added that there is a five percent constitutional limitation that would impinge that.

Representative Bob Cupp asked whether swapping out revenue bonds for general obligation bonds creates a displacement within the limits of using general obligation bonds for some other purpose; wondering if, in other words, Section 2t would absorb part of the total authorization for which general obligation bonds could be used when it would otherwise be two separate things.

In answering, Mr. Hollon directed attention to proposed Section 2t at paragraph A, indicating that “the General Assembly may provide by law, subject to the limitations of and in accordance with this section, for the issuance of bonds and other obligations of the state for the purpose of paying costs for facilities for mental health and developmental disabilities, parks and recreation, and housing of branches and agencies of state government, and to refund obligations previously issued under the authority of the fifth paragraph of Section 2i of Article VIII for these purposes.” Mr. Hollon continued that the General Assembly would have to balance out the need for general obligation bonds versus revenue bonds, and said proposed Section 2t gives the authority to do that.

Co-chair Amstutz agreed, saying proposed Section 2t would simply give the General Assembly more flexibility without directing what should happen.

There being no further questions, Co-chair Amstutz called for a motion. Commission member Kathleen Trafford moved to adopt the report and recommendation, and Governor Bob Taft seconded the motion.

Co-chair Amstutz asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Coley – yea

Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
Mills – yea  
Mulvihill – yea  
Readler – yea  
Saphire – yea  
Sawyer – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Talley – yea  
Trafford – yea  
Wagoner – yea

The motion passed unanimously, by a vote of 26 in favor and none opposed, with six absent.

*Article VIII, Sections 7, 8, 9, 10, and 11 (Sinking Fund and the Sinking Fund Commission)*

Mr. Hollon then presented to the Commission on Article VIII, Sections 7 through 11, relating to the Sinking Fund and the Sinking Fund Commission. Mr. Hollon indicated that the report and recommendation describes the history of the sections, noting that delegates to the Constitutional Convention of 1851 sought adoption of a sinking fund to ensure that state debt would be paid off responsibly. He added that the report and recommendation describes an unsuccessful recommendatiaon to repeal the sections in the 1970s, as well as presentations to the committee related to the purpose and function of the provisions. Mr. Hollon summarized the report and recommendation as concluding that Sections 7, 8, 9, 10, and 11 should be repealed for the reason that the widespread use of bonds and the transfer of the duties of the Sinking Fund Commission to other state officers and agencies have rendered the sections obsolete. He noted the report and recommendation's statement that the Sinking Fund Commission has not met since 2008.

There being no questions from the audience or Commission members, Co-chair Amstutz then entertained a motion to adopt the report and recommendation by Mr. Mulvihill, with Judge Patrick Fischer seconding the motion.

Co-chair Amstutz asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Abaray – yea  
Asher – yea

Beckett – yea  
Clyde – yea  
Coley – yea  
Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
Mills – yea  
Mulvihill – yea  
Readler – yea  
Saphire – yea  
Sawyer – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Talley – yea  
Trafford – yea  
Wagoner – yea

The motion passed unanimously, by a vote of 26 in favor and none opposed, with six absent.

Co-chair Amstutz thanked Mr. Hollon for his presentation. Mr. Hollon acknowledged the contribution of Counsel to the Commission Shari L. O’Neill in putting together the reports and recommendations, and the work of Finance, Taxation, and Economic Development Committee Chair Doug Cole in guiding the committee through its review of the complicated subject matter.

**Rules of Procedure and Conduct:**

Co-chair Amstutz recognized Mark Wagoner, chair of the Organization and Administration Committee, to present a proposal to amend Section 3, Rule 3.9 of the Rules of Procedure and Conduct. Mr. Wagoner said the Commission has had a requirement that 21 members be present in order to do business, having defined 21 members as a quorum. He said there has been difficulty getting a quorum, and so the committee voted to propose amending the rule to indicate 17 members, rather than 21, are needed in order to do business. Mr. Wagoner said the idea of the revision is to allow the Commission to take official action with a simple majority, but not impact the voting requirements for adopting a report and recommendation. Lowering the quorum to 17 would allow the Commission to approve minutes and take some other official action, he said. Mr. Gilbert added that the proposal had passed unanimously in committee.

Mr. Mulvihill asked if the recommendation for change only involves Rule 3.9, relating to what constitutes a quorum. Co-chair Amstutz answered that only Rule 3.9 would change, and the current rule for taking action is located at 3.11, which indicates that the Commission must have

an affirmative vote of 17 members in order to take an action such as approving the minutes, and that this rule would remain unchanged. He clarified that the Commission still would not be able to recommend a change to the constitution without 22 votes.

Co-chair Amstutz indicated this was a first presentation on the proposed rule change, and that there would be two readings before the Commission would vote on the proposal.

**Executive Director's Report:**

Mr. Hollon introduced two student interns who will assist the Commission for the fall semester. He first identified Sara Paz Leigh, a second year law student at The Ohio State University Moritz College of Law participating in the Legislative Clinic program.

Mr. Hollon also introduced Andrew Weaver, a senior at Kent State University participating in the Columbus Program for Intergovernmental Issues, an undergraduate program run by former Commission Co-chair Representative Vernon Sykes.

Co-chair Amstutz welcomed the interns and thanked them for their interest in the Commission. He then called on Senator Tom Sawyer for a motion to adjourn the meeting.

**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:27 p.m.

**Approval:**

The minutes of the September 8, 2016 meeting of the Commission were approved at the October 13, 2016 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

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**MINUTES  
FOR THE MEETING HELD  
THURSDAY, OCTOBER 13, 2016**

**Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:38 p.m.

**Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Asher, Beckett, Bell, Brooks, Clyde, Cole, Coley, Cupp, Curtin, Davidson, Fischer, Jordan, Kurfess, McColley, Mills, Mulvihill, Peterson, Readler, Sapphire, Sawyer, Skindell, Sykes, and Taft in attendance.

**Approval of Minutes:**

The minutes of the September 8, 2016 meeting of the Commission were reviewed and approved.

**Standing Committee Reports:**

*Coordinating Committee*

Vice-chair Jo Ann Davidson, reporting on behalf of the Coordinating Committee, said the committee is reviewing steps that could be taken to make the constitution gender-neutral. She said the committee wishes to give chair Kathleen Trafford the opportunity to provide input as to which committee should have the task of determining how to handle the issue. She noted that Richard Sapphire, chair of the Bill of Rights and Voting Committee, had offered to have his committee address the question, and the Coordinating Committee would be deciding how to move forward at its next meeting.

## **Subject Matter Committee Reports:**

### *Education, Public Institutions, and Local Government Committee*

Chad Readler, Chair of the Education, Public Institutions, and Local Government Committee, reported that in September the committee heard a presentation by Senator Bill Coley regarding Article XV, Section 6 (Lotteries, Charitable Bingo, Casino Gaming). The committee also heard a presentation by Michael Kirkman, executive director of Disability Rights Ohio, regarding the public institutions provisions of Article VII. Mr. Readler said the committee has received reports and recommendations relating to Article VI, Section 5 (Loans for Higher Education), and for Section 6 (Tuition Credits Program), and is expected to vote to retain those sections in their current form. Mr. Readler added the committee has reviewed Article VI, Section 3 (Public School System; Boards of Education), and will be determining if there is a consensus to keep the provision as is or to recommend a change.

### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the Commission has approved three reports and recommendations from his committee on provisions related to state debt and general obligation bonds. He said those reports and recommendations largely wrap up the committee's work regarding Article VIII, other than the sections dealing with lending aid and credit. He said the committee will meet in November to continue that review.

### *Bill of Rights and Voting Committee*

Reporting for the Bill of Rights and Voting Committee, Chair Richard Saphire said the year began with the committee recommending no change to Article I, Section 20 (Powers Reserved to the People), and that a report and recommendation to this effect was approved by the Commission in January 2016. He said the committee then recommended no change to Article V, Section 4 (Exclusion from Franchise), which relates to voting by persons convicted of a felony, and the Commission voted to adopt that recommendation. He said the committee's report and recommendation relating to Article V, Section 6 (Mental Capacity to Vote) had proposed changes to that section after nearly two years of deliberations. However, he said the report and recommendation did not receive sufficient votes to pass when it was submitted for the Commission's consideration. Mr. Saphire continued that the committee will be discussing whether to resubmit or revise that report and recommendation. He said the committee is currently reviewing Article V, Section 1 (Who May Vote), and he hopes the committee will complete its review of Article V in the coming months. He added the committee has several more Article I sections to consider, specifically slavery, involuntary servitude, health care, and property rights, and may recommend adding a provision related to a right to privacy.

### *Judicial Branch and Administration of Justice Committee*

Patrick Fischer, vice-chair of the Judicial Branch and Administration of Justice Committee, reported the committee has been considering the grand jury system, and in this regard has heard

from a grand jury legal advisor in Hawaii about that state's system for conducting grand juries. He said the committee next expects to take up a review of changes to Article IV resulting from the Modern Courts Amendment.

### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, said the committee is making progress on proposing changes to the initiative and referendum process and expects to have something for full Commission review shortly.

He said the committee has addressed two primary concerns. The first is that Article II, Sections 1a through 1g, are difficult to read and understand, and so the committee is undertaking a rewrite of those sections. He said a second issue is the recent phenomenon of the misuse of the constitutional amendment process to create laws that should be statutory. He noted there have been 66 proposed initiated amendments to the constitution and only 12 initiated statutes since the initiative and referendum process was adopted as a result of the 1912 Ohio Constitutional Convention. He said only 18 of the proposed constitutional amendments and only three of the statutory initiatives have passed. Mr. Mulvihill said the committee would like to see those numbers flipped, because there is too much in the constitution that would be better placed in the revised code. He said while initiative and referendum is a right Ohioans hold dear, the process must be easier and more user-friendly.

Mr. Mulvihill said the committee, with the help of staff, is rewriting the sections in order to clarify their content. He said one improvement will be to improve the various steps in the process by making the calendar for accomplishing those steps prospective rather than retrospective. He added that, on a smaller scale, the committee may be recommending language that would allow the General Assembly to modernize the signature collection process. He said a more significant change, with regard to the statutory initiative process, would be to remove the requirement of a supplementary petition so that petitioners will not have to pursue a second round of petition signatures. He said that change will make it easier to engage in the statutory initiative process. At the same time, he said, the committee wants to improve the constitutional initiative process so that when a constitutional amendment is proposed, more people will consider and vote on it.

Mr. Mulvihill noted one option the committee is considering is to require a proposal for an initiated amendment to be approved in two separate elections. He said the committee is considering raising the threshold of the number of voters who must approve a ballot issue, but the committee also recognizes that if the number is too high an initiative would not pass. He said the committee is considering that idea, but has not reached a consensus yet. He added that the proposal to require two consecutive elections is gaining momentum, and the committee is still working on that process. Mr. Mulvihill noted the excellent rewrite of the sections that staff provided to the committee, saying it will make it easier for people to understand the process and will assist the courts and the secretary of state's office. He said these changes will meet the goal of the Commission to modernize the constitution, and the committee hopes to have something for the full Commission to consider shortly.

In relation to Mr. Mulvihill's comments, Representative Mike Curtin asked whether there has been any public comment period yet on the changes the committee is considering. Mr. Mulvihill said the public has been at the meetings, and there have been some presentations and comments related to the proposals. He added that the committee has received correspondence as well, and that there will continue to be input as the committee moves forward. Rep. Curtin replied that, given the historic significance of the initiative and referendum process, it would seem the public relations component of the Commission should make an effort to notify the public about the contemplated changes, so that interested parties could testify and provide opinions about the proposals. He emphasized the importance of having maximum public exposure before the recommendations would come to the full Commission. Mr. Mulvihill agreed that this is important and thanked Rep. Curtin for his comments.

#### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, said the committee will meet next to continue to discuss categories of various sections of Article II relating to the legislative branch. Mr. Mills said Steven C. Hollon, executive director, has analyzed those sections and put them into ten categories. He said the committee has drafts of two reports and recommendations to discuss. He said after completing its coverage of Article II, the committee would be moving on to Article III, relating to the executive branch.

#### **Rules of Procedure and Conduct:**

Co-chair Tavares recognized Mr. Hollon, appearing on behalf of the Organization and Administration Committee, to present for the second time a proposal to amend Section 3, Rule 3.9 of the Rules of Procedure and Conduct. Mr. Hollon said the Commission heard a first presentation on September 8, 2016. He said the proposal is to amend Rule 3.9 to define a quorum of the full Commission to be 17 instead of 21 members. He said that change would allow the Commission to pass on minutes or otherwise conduct business, but does not change the existing rule with regard to needing 22 members to pass a proposal to change an existing constitutional provision.

Co-chair Tavares then asked for public comment or discussion by Commission members. There being none, she entertained a motion by Mr. Sapphire to adopt the proposed rule change, which was seconded by Commission member Jo Ann Davidson.

Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Asher – yea  
Beckett – yea  
Bell – yea  
Brooks – yea  
Clyde – yea  
Cole – yea

Coley – yea  
Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Readler – yea  
Saphire – yea  
Sawyer – yea  
Skindell – yea  
Taft – yea

The motion passed unanimously, by a vote of 24 in favor and none opposed, with 7 absent.

**Executive Director’s Report:**

Mr. Hollon reported that Commission members were being provided with magnets indicating the meeting dates for 2017, and thanked staff for putting that together.

**New Business:**

Co-chair Tavares then recognized Rep. Curtin for the purpose of introducing an item of new business.

Rep. Curtin noted that the Commission is scheduled to sunset at the end of 2017. He said, with that in mind, it behooves the Commission to have a process in place to move with as much expeditiousness as possible regarding recommendations to the General Assembly. He noted the Commission has proposed five amendments that were voted to be recommended. He said he is not aware of who has responsibility for ensuring those recommendations are put in joint resolution form by the Legislative Service Commission (LSC). He said he met with the co-chairs to discuss the process going forward. He said it is possible to get these recommendations voted out of the General Assembly and onto the 2017 ballot, and he wants to ascertain how the Commission will proceed.

Co-chair Ron Amstutz said his response is that this proposal makes common sense. He said he likes the suggestion that the default be that the day the Commission adopts a recommended change to the constitution, the co-chairs or their designees get the recommendations drafted through LSC in proper haste. He said that seems to make sense, and would allow the Commission to make recommendations and offer proposed language. He said his understanding is that the LSC function works only when a legislator asks for drafting. He said, if that connection is made, LSC can work with Commission staff. He said he would like to see the

Commission put that plan into operation. He said, in his mind, the Commission is already going down that road from last month's meeting, and should formalize it.

Mr. Mulvihill asked whether the proposal is to allow the committees to enlist help from LSC, or if it is to happen after full Commission adoption of the recommendation. Co-chair Amstutz said his sense of the process is that the function of the Commission is to develop the language, so that is what the LSC would be drafting anyway, with the rest just being procedural or mechanical. He said the Commission would have to draft the proposed language as soon as it has taken action on the recommendation.

Mr. Hollon indicated that LSC has assisted on a few early questions, but to have LSC redraft after every committee meeting makes it difficult. Mr. Hollon said, upon the passage of each report and recommendation, he drafts letters to the House and Senate leaders of the General Assembly and hand delivers the reports and recommendations as signed by the co-chairs, so that the General Assembly is on notice as to the actions of the Commission. He added, when he delivers those letters, the Commission could contact LSC to have them draft language according to the recommendation of the Commission. He said a recommendation for repeal would not need language. He noted that one recommendation adopted by the Commission offered proposed language, but there may be some necessity for the General Assembly to slightly modify a recommendation.

Rep. Curtin said his sense is it would be incumbent on the co-chairs to follow up with leadership in each of the houses to communicate to get things scheduled for introduction in the General Assembly. Co-chair Tavares then asked for a motion to this effect, and Rep. Curtin so moved, with Judge Fischer seconding the motion.

Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Asher – yea  
Beckett – yea  
Bell – yea  
Brooks – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea

Peterson – yea  
Readler – yea  
Saphire – yea  
Sawyer – yea  
Skindell – yea  
Taft – yea

The motion passed unanimously, by a vote of 24 in favor and none opposed, with 7 absent.

Co-chair Tavares then indicated the co-chairs would work with their respective caucuses to move the Commission’s recommended language along.

**Adjournment:**

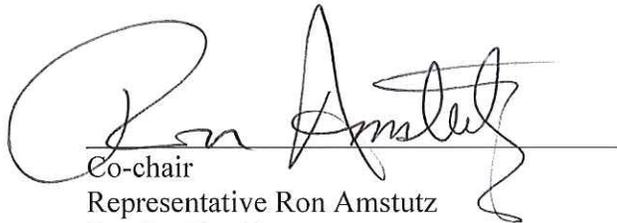
There being no further business to come before the Commission, the meeting adjourned at 2:12 p.m.

**Approval:**

The minutes of the October 13, 2016 meeting of the Commission were approved at the November 10, 2016 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, NOVEMBER 10, 2016

#### **Call to Order:**

Co-chair Ron Amstutz called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:39 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Amstutz and Tavares, and Commission members Abaray, Beckett, Bell, Clyde, Cole, Cupp, Curtin, Davidson, Gilbert, Jacobson, Jordan, Kurfess, McColley, Mills, Mulvihill, Peterson, Readler, Sawyer, Skindell, Sykes, Taft, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the October 13, 2016 meeting of the Commission were reviewed and approved.

#### **Rules of Procedure and Conduct:**

Co-chair Amstutz recognized Mark Wagoner, chair of the Organization and Administration Committee, to provide a first presentation of a proposal to change the Ohio Constitutional Modernization Commission Rules of Procedure and Conduct. Mr. Wagoner reported that the committee unanimously voted in favor of a proposal to change Rules 5.4 and 5.5 to combine the Public Education and Information Committee with the Liaisons with Public Offices Committee, renaming it the Public Information and Liaisons with Public Offices Committee. He said the reason for the recommended change is that the two committees largely meet together, so that combining them is more efficient.

Co-chair Amstutz asked for comments or questions from Commission members and the public, and there were none. He said the Commission is required to have two presentations on the proposal, so it will be addressed again at the next Commission meeting.

## **Subject Matter Committee Reports:**

### *Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, reported that, at its meeting earlier, Morris Murray, Defiance County prosecutor, appearing on behalf of the Ohio Prosecuting Attorneys Association, advocated for retaining the grand jury procedure in its current form. Ms. Abaray said Mr. Murray agreed that, to the extent a grand jury witness is later called to testify at trial, the grand jury transcript should be available to defense counsel as to that witness. She said the committee thought that was an important point. Ms. Abaray said the committee continued to consider the concept of a grand jury legal advisor as it is used in Hawaii, as well as other ways to improve public confidence in the process and to provide transparency. Ms. Abaray said the remainder of the meeting included a presentation by Richard Walinski and Commission member Mark Wagoner on their proposal to modify a the Modern Courts Amendment. She said Mr. Walinski and Mr. Wagoner have a proposal that would clarify the roles of the Supreme Court of Ohio and the General Assembly as to rulemaking authority.

### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, reported that his committee would be meeting later to hear a presentation by Steven Huefner, law professor at the Ohio State University Moritz College of Law, as the committee continues its review of Article II relating to the Legislative Branch.

### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee has voted to issue a report and recommendation for no change to Article VIII, Sections 2l, 2m, 2n, 2o, 2q, 2r, and 2s, related to public debt, and that this report and recommendation will be presented to the Commission at its next meeting.

### *Education, Public Institutions, and Local Government Committee*

Chad Readler, Chair of the Education, Public Institutions, and Local Government Committee, reported that the committee voted to keep in place Article VI, Section 5 (Loans for Higher Education) and Section 6 (Tuition Credits Program), and would be presenting those reports and recommendations at the next Commission meeting. He said the committee is now turning to Article VII, relating to public institutions, discussing sections in that article that may be obsolete as well as Section 1, which contains outdated references. Mr. Readler invited Commission members share with the committee any views on how the committee might address the concerns raised by Article VII.

## **Old Business:**

Co-chair Amstutz recognized Steven C. Hollon, executive director, to provide an update on the process of creating joint resolutions related to the Commission's recommendations, as the Commission had voted to pursue at its October 2016 meeting.

Mr. Hollon said, under the direction of Co-chair Amstutz and Commission member Representative Michael Curtin, staff worked with the Legislative Service Commission to draft four joint resolutions relating to reports and recommendations adopted by the Commission.

He identified three joint resolutions sponsored by Reps. Curtin and Amstutz, that relate to Article VIII and were the result of review by the Finance, Taxation, and Economic Development Committee. He said House Joint Resolution 11 would repeal sections of Article VIII relating to the Sinking Fund and the Sinking Fund Commission. Mr. Hollon said House Joint Resolution 10 would enact a new Section 18 and repeal Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2j, and 2k of Article VIII. Mr. Hollon added that House Joint Resolution 9 would enact a new Section 2t in Article VIII to re-authorize lease appropriation bonds as general obligation debt.

In relation to Article VI, the Judicial Branch, Mr. Hollon reported that House Joint Resolution 12 would repeal Sections 19 and 22 in order to eliminate obsolete provisions for courts of conciliation and a supreme court commission. He said that joint resolution resulted from reports and recommendations adopted by the Commission and originally issued by the Judicial Branch and Administration of Justice Committee.

Co-chair Amstutz indicated that an effort is under way by Co-chair Tavares and Commission member Senator Bob Peterson to introduce companion resolutions in the Senate.

**New Business:**

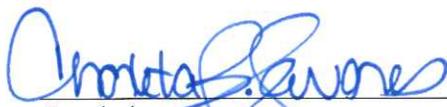
Co-chair Amstutz announced a conflict regarding the next scheduled meeting of the Commission on December 8, 2016. He suggested that the Commission meet the following week, on Thursday, December 15, 2016, asking about the availability of Commission members at that alternate time. He said to expect correspondence regarding changing the meeting date, expressing hope that a suitable alternative could be arranged.

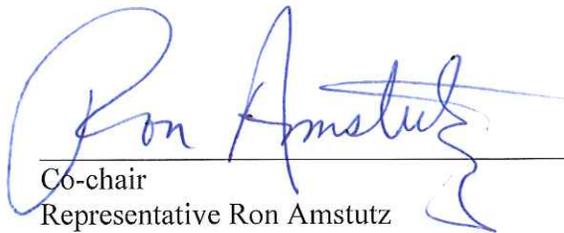
**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 1:55 p.m.

**Approval:**

The minutes of the November 10, 2016 meeting of the Commission were approved at the December 15, 2016 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Ron Amstutz  
Speaker Pro Tempore

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Ron Amstutz*  
*Speaker Pro Tempore*  
*1<sup>st</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, DECEMBER 15, 2016

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:39 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Amstutz, and Commission members Brooks, Clyde, Cole, Cupp, Curtin, Davidson, Fischer, Jacobson, McColley, Mills, Mulvihill, Peterson, Saphire, Sawyer, Skindell, Sykes, and Talley in attendance.

#### **Approval of Minutes:**

The minutes of the November 10, 2016 meeting of the Commission were reviewed and approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Jo Ann Davidson, vice-chair of the Coordinating Committee, reported that the committee approved three reports and recommendations for no change. The first two, issued by the Education, Public Institutions, and Local Government Committee, related to Article VI, Section 5 (Loans for Higher Education), and Article VI, Section 6 (Tuition Credits Program). The third report and recommendation was issued by the Finance, Taxation, and Economic Development Committee, recommended retention of Article VIII, Sections 21 through 2s (Additional Authorization of Debt Obligations).

Vice-chair Davidson said the committee also heard a presentation regarding the Commission's Biennial Report for 2015-2016, which outlined all of the activities of the Commission and its committees over the past two years. Acknowledging the work of staff in putting together the Biennial Report, Vice-chair Davidson said the committee approved the report, which, along with

the three reports and recommendations, are being submitted for consideration by the full Commission.

Vice-chair Davidson added that the committee also decided to take the lead on reviewing and recommending possible revisions to gender-specific language currently in the constitution. She said the committee decided to give the Constitutional Revision and Updating Committee responsibility for recommending language that would ensure the use of gender-neutral language in future constitutional provisions.

### **Subject Matter Committee Reports:**

#### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that the committee discussed Article V, Section 1, relating to the qualifications of an elector. He said the committee voted to postpone further discussion of that section until July 1, 2017. He said the committee will begin to look at remaining provisions of Article V at its next meeting.

#### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, said the committee heard excellent suggestions regarding potential changes to Article II, Sections 1 through 1g, which govern the initiative and referendum process. He said Attorney Don McTigue, as well as representatives from the League of Women Voters of Ohio and Common Cause, were present to review with the committee their concerns and suggestions about improving the process. He said the committee will continue to consider possible revisions and hopes to have a recommendation in early 2017.

#### *Legislative Branch and Executive Branch Committee*

Committee Chair Fred Mills reported that the committee would meet later in the day to review and potentially issue two reports and recommendations relating to legislative procedures, and would also hear an update and continue its review of proposals relating to Congressional redistricting.

### **Reports and Recommendations:**

Co-chair Tavares recognized Shari L. O'Neill, counsel to the commission, to give a first presentation on behalf of the Education, Public Institutions, and Local Government Committee regarding two reports and recommendations.

#### *Article VI, Section 5 (Loans for Higher Education)*

Ms. O'Neill indicated that the report and recommendation expresses the committee's conclusion that Article VI, Section 5, relating to loans for higher education, should be retained in its current form because it articulates a policy encouraging financial support for state residents wishing to pursue higher education, specifically declaring it to be in the public interest for the state to guarantee the repayment of student loans, and authorizing laws to carry into effect such purpose.

Ms. O'Neill continued that the report describes the history of the section as being adopted by voters in May 1965 as a way of increasing opportunities for state residents to pursue higher education by guaranteeing higher education loans and allowing laws to be passed to effectuate that purpose. She said the report outlines that the provision was effectuated by statutes that first created commissions to oversee student loans, but that, by 1995, the changing landscape of the student loan market, including the success of a federal direct-lending program, and the fact that private companies were offering the same service, rendered the commissions obsolete.

Ms. O'Neill said the report and recommendation indicates that Section 5 has not been amended or reviewed since its adoption, and that the section has not been subject to any Ohio Supreme Court decisions. Ms. O'Neill said the report describes that presentations by two former directors of the commissions that oversaw the state student loan program would support the conclusion that the constitutional section is currently nonfunctional.

She said the report explains the committee's view that, despite that Article VI, Section 5 would appear unnecessary to facilitate activities of the Ohio Department of Higher Education in relation to student loans, grants, and scholarships, to accommodate the federal student loan program, or to support private lender activity related to student loans, potential changes to the federal government's student loan programs and policies could render the section useful in the future. She said the committee also was uncertain whether the provision could be necessary to support programs that forgive student loan debt in order to foster the provision of needed services in underserved areas of the state. Thus, she said, the report concludes that the section expresses an important state public policy of encouraging higher education and helping students afford it, and so should be retained in its present form.

*Article VI, Section 6 (Tuition Credits Program)*

Ms. O'Neill presented the report and recommendation of the Education, Public Institutions, and Local Government Committee on Article VI, Section 6, relating to Ohio's tuition credits program. Stating the report concluded the section should be retained in its current form, Ms. O'Neill described that Section 6 is designed to promote the pursuit of higher education by establishing in the constitution a government-sponsored program to encourage saving for post-secondary education.

Ms. O'Neill summarized the report's description of the history of the section, indicating that, in 1989, the General Assembly enacted statutes that established a college savings program and created the Ohio Tuition Trust Authority (OTTA), an office within the Ohio Board of Regents (now the Department of Higher Education). She said the report describes that voters approved the creation of Section 6 in 1994 as a way to address concerns about the tax exempt status of such savings plans. Ms. O'Neill said the report indicates these concerns were resolved by changes in the federal tax code that confirmed the exempt status of these "529 plans," so named for the Internal Revenue Code section that describes them. Ms. O'Neill said the report outlines a presentation by the director of the OTTA, who described that since their implementation in the early 1990s, 529 plans have grown to represent \$253.2 billion in investments nationwide, with the average account size now hovering at \$20,000. In addition, Ohio plan data indicate that, as of December 2015, over a half million accounts are open, with over \$9 billion in assets.

Ms. O'Neill said the report indicates that, although the need for the provision was resolved by the tax code change, the OTTA director recommended Section 6 be retained because one purpose of the provision is to establish the full faith and credit backing of the state for one of the savings plans offered by the program. She said the report indicates the committee's conclusion that although no new account holders for that plan have been added since 2003, the fact that some accounts are still active may require the constitutional provision to be retained in its current form. Thus, she said, the report concludes Article VI, Section 6 should be retained.

Co-chair Tavares thanked Ms. O'Neill for her presentation, indicating that a second presentation of these reports and recommendations would be heard at the next Commission meeting.

*Article VIII, Sections 2l, 2m, 2n, 2o, 2p, 2q, 2r, 2s (Additional Authorization of Debt Obligations)*

Co-chair Tavares recognized Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, for the purpose of providing a first presentation of the committee's report and recommendation on Article VIII, Sections 2l through 2s, relating to the authorization of debt obligations.

Mr. Cole indicated the sections covered by the report and recommendation contrast with other debt authorization sections in Article VIII in that they still have outstanding bonding amounts and, as such, are the working subsections of the article. He said, as a result, while a previous report and recommendation recommended the repeal of Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2j, and 2k because they are obsolete, this report and recommendation recommends retaining Sections 2l through 2s because they are currently in use.

Mr. Cole indicated the report and recommendation outlines what each section does, briefly noting that the sections authorize debt to fund projects relating to state infrastructure. He said the sections do not have expiration dates but rather have maximum dollar amounts. He said the report and recommendation describes that the sections are relatively recent, that, for the most part, they have not been amended, and that there has been no litigation relating to the sections. He said the report concludes that because the bonds are still outstanding, the committee did not recommend change.

Mr. Cole having concluded his presentation, Co-chair Tavares thanked Mr. Cole and indicated the Commission would hear a second presentation on the report and recommendation at its next meeting.

**Rules of Procedure and Conduct:**

Co-chair Tavares then recognized Steven C. Hollon, executive director, for the purpose of providing a second presentation on proposed changes to the Commission's Rules of Procedure and Conduct.

Mr. Hollon described that the Organization and Administration Committee is proposing a change to Rules 5.4, 5.5, and 5.6 that would consolidate two committees, the Public Education and Information Committee and the Liaisons with Public Office Committee. He said the change was being recommended because the committees meet jointly. He said, if the Commission adopts the

change, the joint committee would be known as the Public Information and Liaisons with Public Offices Committee.

Co-chair Tavares then asked for a motion to adopt the rule change. Representative Bob Cupp so moved, with Representative Robert McColley seconding the motion. Co-chair Tavares asked for comment by the public and members of the Commission, and there was none.

Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Brooks – yea  
Clyde – yea  
Cole – yea  
Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Jacobson – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Saphire – yea  
Sawyer – yea  
Skindell – yea  
Sykes – yea  
Talley – yea

The motion passed unanimously, by a vote of 18 in favor and none opposed, with 13 absent.

#### **2015-2016 Biennial Report:**

Co-chair Tavares then recognized Mr. Hollon for the purposes of presenting the 2015-2016 Biennial Report. Mr. Hollon indicated that Ohio Revised Code 103.66 requires the Commission to issue a biennial report to the General Assembly. He said staff prepared the draft report, which, once adopted, will be submitted to the General Assembly. Mr. Hollon described the report as providing information about the Commission's membership, staff, and organization, as well as outlining the work of the various committees in reviewing the constitution and issuing reports and recommendations, and the adoption of reports and recommendations by the full Commission. Mr. Hollon indicated that, although the Biennial Report is complete, parts of the report would be revised by staff to reflect developments at the December 2016 Commission and committee meetings.

Co-chair Tavares opened the floor for questions. Mr. Cole asked that a portion of the draft report be revised to reflect that the Commission had not yet approved the report and recommendation for Article VIII, Sections 21 through 2s. Mr. Hollon agreed this change was necessary and indicated the final draft would so reflect.

Mr. Sapphire complimented the staff for the thoroughness of the report.

Representative Mike Curtin asked what would be the normal timing and protocol for reorganization of Commission, specifically in regard to filling vacant seats. Mr. Hollon said he would be meeting with Co-chair Tavares to discuss when and how that might be accomplished.

There being no further discussion or questions, Co-chair Tavares asked for a motion regarding the Biennial Report. Senator Mike Skindell moved to adopt the 2015-2016 Biennial Report, noting that items noted by Mr. Cole would be excluded. The motion was seconded by Commission member Patrick Fischer.

Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Amstutz – yea  
Brooks – yea  
Clyde – yea  
Cole – yea  
Cupp – yea  
Curtin – yea  
Davidson – yea  
Fischer – yea  
Jacobson – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Sapphire – yea  
Sawyer – yea  
Skindell – yea  
Sykes – yea  
Talley – yea

The motion passed unanimously, by a vote of 19 in favor and none opposed, with 12 absent.

Co-chair Tavares thanked staff for their work on the report.

**Old Business:**

Co-chair Tavares then recognized Co-chair Amstutz and Rep. Curtin for the purposes of providing an update on the progress of House Joint Resolutions related to the work of the Commission.

Co-chair Amstutz said he and Rep. Curtin had acted on the House side to introduce the recommendations of the Commission relating to proposed changes to Article IV (Judiciary) and Article VIII (Public Debt and Public Works). He said they initially had proposed four separate resolutions, but then decided to introduce an additional joint resolution that brought the state debt resolutions into one. Thus, he said there were hearings on House Joint Resolution 12 (proposing

repeal of Article IV, Section 22 [Supreme Court Commission]), and House Joint Resolution 13 (combining Commission recommendations regarding sections of Article VIII), in the House Government Accountability and Oversight Committee. He said the purpose of introducing the resolutions was to get the discussion started. He said the introduction occurred in the bustle of the last few days of the General Assembly, so typically such resolutions would not be heard, but that they had a special waiver by the committee chair at the request of himself and Rep. Curtin.

Rep. Curtin added that he hoped the resolutions would moved forward in the next General Assembly, thanking Co-chairs Amstutz and Tavares for their work in facilitating this effort. Co-chair Tavares added that efforts by herself and Senator Bob Peterson in the Senate did not make the same progress but that they would continue to work on it.

Sen. Skindell noted that his membership on the Ballot Board called to mind a concern about combining the recommendations regarding Article VIII into one joint resolution. He wondered if the combination might raise a concern about having more than one subject as a single ballot issue.

Rep. Amstutz said the decision to combine the recommendations into one resolution was a preliminary legislative decision, but ultimately the General Assembly and the Ballot Board will have the opportunity to decide the one-subject question.

#### **New Business:**

Co-chair Tavares announced this was the last Commission meeting for Co-chair Amstutz, Sen. Sawyer, and Rep. Curtin. She asked them if they would like to provide remarks on the occasion of their departure.

Co-chair Amstutz said he has been accused of being a “policy wonk,” but that the Commission is great place to ply that approach. He said he has enjoyed this work although it has plodded at times and the Commission’s slow start was frustrating. But, he added, the Commission is doing important work, momentum has happened, and is is glad to have served. He suggested that the Commission revisit the one thing that fell apart, which was the recommendation regarding what to do about the “idiots and insane persons” language in Article V, Section 6. He said he is excited about the next phase of his career, but that his time on the Commission has been a “great run.” He said he wishes the Commission all the best in the future.

Rep. Curtin said he implores those in positions of relevance and authority to take note that in the last budget the life of the Commission was cut in half from its original statutory charge. He said he hopes they may see merit in restoring the full life of the Commission because there is a lot of good work still to do.

Sen. Sawyer said this meeting draws to an end a long chapter in the opportunities he has had. He said Co-chair Amstutz came into the House in 1983, “he came as I was going out” and “our paths have woven even since.” Sen. Sawyer said this is my penultimate meeting of responsibility, and that, after serving in the Ohio Senate now after 40 years, he could not ask for a more satisfying responsibility than this one. He said he is deeply gratified to have been able to serve on this body with this particular group of people. He said “We are diverse, we come from

a diverse state, and we face challenges, and we reach far into the future. I am proud to have been a part of it.”

Asked to comment on whether he would continue to serve on the Commission after being elected as justice of the Supreme Court of Ohio, Patrick Fischer said he is reviewing the issue of whether he will be able to remain on the Commission, saying he would like to do so. He said he has enjoyed his service, and that the work of the Commission is interesting and important. He noted “We didn’t get off the ground for two years. I ask the legislature if they would review this and give the Commission time. Because we have momentum here. If you think about what we have done so far, it is important.” Judge Fischer said he hopes more judges get on the Commission because that provides a different perspective that he thinks would be helpful. He added his wish that the Commission meet outside of Columbus, saying the more rural areas of the state would catch on to the project and that local papers would give the Commission’s work more attention and support.

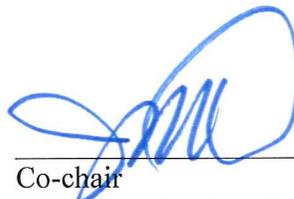
**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:25 p.m.

**Approval:**

The minutes of the December 15, 2016 meeting of the Commission were approved at the March 9, 2017 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Jonathan Dever

\* Having been approved in March 2017, the December 2016 Minutes were signed by Representative Jonathan Dever, who succeeded Representative Ron Amstutz as co-chair.

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Jonathan Dever*  
*28<sup>th</sup> House District*

**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

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**MINUTES OF THE  
LEGISLATIVE MEMBERS MEETING**

**THURSDAY, FEBRUARY 9, 2017**

**Call to Order:**

Co-chair Charleta Tavares called the meeting of the legislative members of the Ohio Constitutional Modernization Commission to order at 1:15 p.m.

**Members Present:**

A quorum was present with Commission Co-chair Tavares and Commission members Clyde, Cupp, Dever, Jordan, McColley, Skindell, and Vernon Sykes in attendance.

**Discussion:**

Co-chair Tavares welcomed Representative Jonathan Dever and Senator Vernon Sykes as new members of the Ohio Constitutional Modernization Commission.

Co-chair Tavares invited a motion to nominate a co-chair from the House Republican Caucus who would replace Representative Ron Amstutz, who departed the General Assembly at the end of 2016.

Representative Robert McColley moved to elect Representative Jonathan Dever as co-chair of the Commission.

The motion was seconded by Representative Bob Cupp.

Upon a roll call vote, the motion passed. Co-chair Tavares announced that Representative Jonathan Dever will serve as the Republican House co-chair of the Ohio Constitutional Modernization Commission for the remainder of the two-year term that commenced January 10, 2016.

**Adjournment:**

There being no further business, the meeting adjourned at 1:20 p.m.

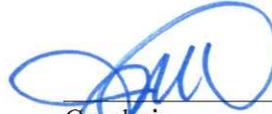
**Approval:**

The minutes of the February 9, 2017 meeting of the Legislative Members of the Commission were approved at the March 9, 2017 meeting of the Commission.



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Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



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Co-chair  
Representative Jonathan Dever

*Co-Chair*  
Charleta B. Tavares  
Assistant Minority Leader  
15<sup>th</sup> Senate District



*Co-Chair*  
Jonathan Dever  
28<sup>th</sup> House District

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, FEBRUARY 9, 2017

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:35 p.m.

#### **Members Present:**

A quorum was not present with Commission Co-chairs Tavares and Dever, and Commission members Beckett, Brooks, Clyde, Cole, Davidson, Gilbert, Jordan, Peterson, Sapphire, Skindell, Sykes, Taft, Talley, and Wagoner in attendance.

#### **Approval of Minutes:**

There being no quorum, the minutes of the December 15, 2016 meeting were not approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Jo Ann Davidson, vice-chair of the Coordinating Committee, reported that the committee did not meet.

#### **Subject Matter Committee Reports:**

##### *Bill of Rights and Voting Committee*

Richard Sapphire, chair of the Bill of Rights and Voting Committee, reported that the committee discussed Article V, Section 2, relating to the ballot, and Section 2a, relating to the order of names on the ballot. He said the committee had two presenters: Matthew Damschroder from the secretary of state's office, and Erik J. Engstrom, from the University of California, Davis, Department of Political Science. He said the committee is currently working on a report and recommendation for Article V, Section 2a, which the committee recommends be retained in its current form. The committee also considered and voted to recommend amending Article V,

Section 2 by adding the word “secret” before ballot. Mr. Sapphire stated that the committee hopes to meet in March to begin discussion on Article V, Section 7, which deals with primary elections.

*Constitutional Revision and Updating Committee*

Shari L. O’Neill, interim executive director and counsel, reporting on behalf of Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, said the committee did not meet this month, but plans to meet in March to continue its discussion on the initiative and referendum process. She said the committee hopes to have a recommendation soon.

*Legislative Branch and Executive Branch Committee*

Legislative Branch and Executive Branch Committee Vice-chair Paula Brooks reported that the committee is currently considering procedures and practices of the General Assembly in Article II. She said the committee has issued two reports and recommendations, both for no change. The first of these is for Article II, Sections 3, 4, 5, and 11, relating to qualifications and vacancies in the General Assembly. A second report and recommendation is for no change to Article II, Sections 6, 7, 8, 9, 13, and 14, relating to conducting business of the General Assembly.

*Education, Public Institutions, and Local Government Committee*

Education, Public Institutions, and Local Government Committee Vice-chair Edward Gilbert reported that the committee is reviewing Article VII, relating to Public Institutions. He said the committee is considering whether Section 1 of Article VII, which contains obsolete and offensive references to persons with disabilities, should be eliminated or modernized. He said, to that end, the committee has heard from experts in the field of disability law as well as interested parties, and will be continuing its review and consideration of Article VII at its next meeting in March.

*Judicial Branch and Administration of Justice Committee*

Ms. O’Neill reported on behalf of Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee. She said the committee met in January to consider Article I, Section 8, regarding the writ of habeas corpus, Section 12, regarding transportation for crime, corruption of blood, and forfeiture of estate, and Section 15, prohibiting imprisonment for debt. The committee also continued a discussion of possible recommendations regarding the grand jury process, as provided in Article 1, Section 10. She said the committee is next scheduled to meet in March, at which time it will hear more about recently-enacted legislation regarding civil forfeiture law and how the new law may relate to Article I, Section 12. The committee also hopes to conclude its work on the grand jury process at the March meeting.

*Executive Director Report*

Ms. O’Neill introduced Chris Gawronski, this semester’s law student intern from the legislation clinic program at the Ohio State University Moritz College of Law. She said Mr. Gawronski is pursuing a law degree after serving for many years in the field of public transportation. Ms.

O'Neill noted that early in his career, Mr. Gawronski served as a Legislative Service Commission fellow as well as a legislative aide.

**New Business:**

Co-chair Tavares recognized newly appointed Co-chair Jonathan Dever. Co-chair Dever thanked previous Co-chair Amstutz and stated that he was looking forward to working with the Commission to review the Ohio Constitution.

Referencing the recent departure of Executive Director Steven C. Hollon, Co-chair Tavares said Mr. Hollon made the work much easier for her as a co-chair. Speaking on behalf of the Commission, Co-chair Tavares said "we wish him the best." She described that Mr. Hollon has taken a position as executive director of the Ohio United Way, a role that will allow him to use his legal background a little differently. She said she enjoyed working with him, describing him as a well-respected lawyer who came to the Commission from the Ohio Supreme Court with a background that was complimentary to the work of the Commission.

Commenting on Mr. Hollon's service to the Commission, Mr. Saphire said when Mr. Hollon came on board there was an improvement in the functioning of the Commission. He said "Steve was a godsend for those who were chairs and others as well. His counsel was always wise and he will be missed."

Ms. Brooks also complimented Mr. Hollon, saying she first met him many years ago when he was a fellow for the Ohio Bar Association. She said, at that time, Mr. Hollon impressed her, and when he was hired as executive director she knew that he would work hard for the Commission. She said he "balanced many interests so well," noting her appreciation for "all the work he did on behalf of the citizens of Ohio."

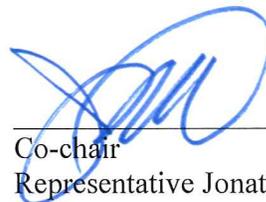
**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:01 p.m.

**Approval:**

The minutes of the February 9, 2017 meeting of the Ohio Constitutional Modernization Commission were approved at the March 9, 2017 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Jonathan Dever

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Jonathan Dever*  
*28<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, MARCH 9, 2017

#### **Call to Order:**

Co-chair Jonathan Dever called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:32 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Dever and Tavares, and Commission members Abaray, Asher, Beckett, Clyde, Cole, Coley, Davidson, Gilbert, Holmes, Jacobson, Jordan, Kurfess, McColley, Mulvihill, Peterson, Sapphire, Skindell, Sykes, Taft, and Trafford in attendance.

#### **Approval of Minutes:**

The minutes of the December 15, 2016 and February 9, 2017 meetings were approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Kathleen Trafford, chair of the Coordinating Committee, reported that the committee voted to approve four reports and recommendations: three from the Legislative Branch and Executive Branch Committee, and one from the Bill of Rights and Voting Committee. She said the committee then took up the issue of gender neutrality in the constitution. She reported that the issue of assuring gender neutrality in future constitutional provisions has been assigned to the Constitutional Revision and Updating Committee. She said the remaining question, regarding gender-specific language in the current provisions, will be addressed by the Coordinating Committee, which will prepare a report and recommendation to be brought forward soon.

## **Subject Matter Committee Reports:**

### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, said the committee is wrapping up its work on modernizing the constitutional and statutory initiative process. He said the committee's goal is to encourage people to take the statutory initiative route, rather than the constitutional initiative route, because there has been a trend in recent years for proponents to attempt to constitutionalize measures that are better suited for the Revised Code, and to create monopolies by constitutionalizing their business plans. He added that Ohio has seen a disproportionate use of the constitutional initiative method, with 80 percent of the initiatives being constitutional and only 20 percent being statutory.

Mr. Mulvihill continued that the committee has been rewriting the initiative and referendum sections because they are poorly written and difficult to follow. He said the committee's goal is to make the initiative process more user-friendly, and additionally allow the General Assembly to enact law to modernize the petition process. He said the recommendation will also require gender-neutral language where appropriate.

He said one change involves requiring the ballot board to write the ballot language up front, before requiring the proponents to gather signatures. He said the committee has heard testimony indicating that proponents have spent money and time getting signatures only to find that the ballot board has required ballot language they do not like. He said another change streamlines the process for filing an Ohio Supreme Court action if a decision by the attorney general, secretary of state, or other party has aggrieved them. He said the committee is making the timing prospective to clarify when key events need to occur. Another change Mr. Mulvihill noted is that proponents will be allowed to suggest the title, ballot language, and explanation, if they choose. He said the committee also plans to leave to the attorney general the analysis of whether the language is fair and truthful, and leave to the ballot board the role of writing the ballot language. He said the committee will also recommend removal of the supplemental petition requirement in the statutory initiative process, requiring a one-time signature requirement of five percent.

Finally, Mr. Mulvihill described that the committee will recommend requiring 55 percent approval at the polls rather than a simple majority, and allowing the issue to go on the ballot in even-year elections. He said the basis of that concept is data indicating that, in even-year elections, about 4.8 million people vote, while in odd-year elections only about 2.8 million people vote, which is a significant drop off. He said the collective wisdom of the committee is that it is preferable to have more, rather than fewer, people approving an amendment to the constitution. He said the new process will be easier for proponents, with the hope that the changes will take out any gamesmanship that may currently exist. Mr. Mulvihill said the committee expects to have a first presentation on a report and recommendation in April, and the proposal should be before the Commission in about three months.

### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that the committee first considered a report and recommendation regarding Article V, Section 2, which states that all

elections shall be by ballot. He said the report and recommendation would have amended that section to include the word “secret,” but, after a debate, the committee voted to reject the report and recommendation. However, he said the committee wished to consider at a future meeting whether to include language that would help secure the ballot from efforts to “hack” election results. He said the committee also considered Article V, Section 2a, which relates to names of candidates on the ballot, and unanimously voted to issue a report and recommendation for no change to that provision. He said the committee also considered Article V, Section 7, relating to the primary election process, identifying two issues for potential revision. First, the committee’s consensus was to consider repealing as obsolete a phrase regarding the “preferential senatorial vote” as a result of the adoption of the Seventeenth Amendment to the United States Constitution. The committee also indicated it would like to consider the possibility of including federal offices as one of the listed offices for which the primary petition would provide a way to the ballot.

#### *Legislative Branch and Executive Branch Committee*

Reporting for the Legislative Branch and Executive Branch Committee, committee member Bob Taft said the committee voted to issue a report and recommendation for Article II, Sections 10 and 12, dealing with the rights and privileges of the General Assembly, specifically, the right to record a protest, and the privilege against arrest while going to and from legislative session, and also from having to answer elsewhere for speeches or debates made by members in the General Assembly. He said the committee also has issued two reports and recommendations for no change to multiple Article II sections: Article II, Sections 3, 4, 5, and 11 (Member Qualifications and Vacancies in the General Assembly); and Article II, Sections 6, 7, 8, 9, 13, and 14 (Conducting Business of the General Assembly). He said the committee hopes to have a first presentation of a report and recommendation for Article II, Sections 15, 16, 26, and 28 (Enacting Laws) at its next meeting, as well as to begin considering some sections of Article III, dealing with the Executive Branch.

#### *Education, Public Institutions, and Local Government Committee*

Education, Public Institutions, and Local Government Committee Vice-chair Edward Gilbert reported that the committee will meet later in the day to continue its review of Article VII, which deals with public institutions, including Sections 2 and 3 relating to the penitentiary. He said the committee is considering how to change Section 1 of Article VII, dealing with institutions for the “insane, blind, deaf and dumb.”

#### *Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, said the committee will meet immediately after the full Commission meeting. She said the committee will hear from Robert Alt, from the Buckeye Institute, who will be addressing the topic of civil forfeiture in relation to the committee’s review of Article I, Section 12 (Transportation for Crime, Corruption of Blood, and Forfeiture of Estate). She said the committee also will have a presentation on two other reports and recommendations, one for Article I, Section 8 (Writ of Habeas Corpus), and Article I, Section 15 (No Imprisonment for Debt). She said the committee will consider two versions of a report and recommendation regarding the grand jury process, looking at two possible changes: one involving the availability of transcripts and the other

involving a Hawaii model of having a grand jury legal advisor present to assist the grand jury. She said the committee has specific language related to those concepts that it can consider at its meeting. She said the committee had a presentation by Commission member Mark Wagoner regarding a proposal to amend the Modern Courts Amendment, and has received a letter from the Supreme Court in response to that proposal. She said the committee will discuss that issue at a future meeting.

*Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that, at its next meeting, the committee will address the role of the treasurer of state. He said, in light of the committee's recommendation, adopted by the Commission, that provisions related to the sinking fund be repealed, the committee will consider whether it would be prudent to include in the constitution a mandatory debt reporting function on the part of the treasurer. He said the committee will have a speaker from the Office of the Treasurer and a speaker from the Office of Budget and Management attend the meeting to provide their views on the topic.

**Reports and Recommendations:**

*Article II, Sections 3, 4, 5, and 11  
(Member Qualifications and Vacancies in the General Assembly)*

Co-chair Dever recognized Shari L. O'Neill, interim executive director and counsel to the Commission, for the purpose of providing a first presentation of a report and recommendation for Article II, Sections 3, 4, 5, and 11. She said the report indicates the committee's recommendation that the sections be retained in their current form. She said the report further describes that these sections address the qualifications of members of the General Assembly, as well as providing for filling vacancies in legislative seats. Originally adopted as part of the 1851 constitution, she said the report states that the sections specifically describe residency requirements and restrictions on those who serve in the General Assembly, and the method for filling a vacancy in the General Assembly.

Ms. O'Neill continued that the report outlines the changes recommended by the Constitutional Revision Commission in the 1970s, as well as amendments to the sections. She said the report also describes related litigation, as well as documenting the committee's discussion and consideration of the sections. She said the report expresses the committee's conclusion that the sections continue to appropriately and effectively guide the legislature's organization and operation, and so should be retained in their current form.

Co-chair Dever thanked Ms. O'Neill for this first presentation of the report and recommendation for these sections. He asked whether there were any comments in relation to the report and recommendation.

Commission member Charles Kurfess asked whether there are any court decisions related to the requirement in Section 3 that legislators have resided in their respective districts for one year before their election. Ms. O'Neill noted a case cited in the report and recommendation, *State ex rel. Husted v. Brunner*, 123 Ohio St. 3d 288, 2009-Ohio-5327, 915 N.E.2d 1215, dealt with that issue.

With regard to Section 11, which prescribes the procedure for filling vacancies, Mr. Kurfess asked whether anyone has raised the issue of filling a vacancy if the individual member whose departure caused the vacancy was elected in some capacity other than as a member of the Republican or Democratic Party. He noted that the current trend is for more candidates to run as independents, but the current provision does not seem to be designed for that situation.

Senator Bill Coley said he is not aware of any member who did not caucus with someone, so that, even in the United States Congress, where members are elected as independents, they choose to caucus with one party caucus or the other. He said a situation in which someone was truly independent and did not caucus with anyone and then left, that would pose a quandary. But, he said, under the current rules, if an independent caucuses with a party, it would be up to that party to replace that person.

Commission member Jeff Jacobson disagreed, indicating that the replacement would depend on what the person was elected as. He noted an example in which a Democrat was elected but joined the Republican Party after being elected; indicating that if that person had left the Democratic Party would have chosen his replacement.

Mr. Kurfess said, as he reads it, what the member does after he gets to the legislature does not affect which party replaces the legislator if there is a vacancy.

Co-chair Dever suggested that question could be put to the Legislative Branch and Executive Branch Committee to determine how it might be addressed.

*Article II, Sections 6, 7, 8, 9, 13, and 14. (Conducting Business of the General Assembly)*

Co-chair Dever continued to recognize Ms. O'Neill for the purpose of providing a first presentation of a report and recommendation for Article II, Sections 6, 7, 8, 9, 13, and 14. Ms. O'Neill said the report describes that Section 6 outlines the powers of each house of the General Assembly, requiring each house to be the judge of the election, returns, and qualifications of its own members, setting the number of members for a quorum, allowing each house to prescribe punishment for disorderly conduct, and to obtain information necessary for legislative action, including the power to call witnesses and obtain the production of books and papers. She said the report describes that Section 7 provides for the organization of each house of the General Assembly, allowing the mode of organizing to be prescribed by law, and requiring each house to choose its own officers, with there being designated a president of the Senate and a Speaker of the House of Representatives. Ms. O'Neill indicated the report outlines that Section 8 governs the calendar of the General Assembly, and allows the governor, or the presiding officers of the general assembly chosen by the members thereof, acting jointly, to convene the general assembly in special session by a proclamation which may limit the purpose of the session.

She said the report states that Section 9 requires the two chambers to keep and publish a journal of proceedings, and to record the votes. The report also indicates that Section 13 relates to the public nature of the legislative process, requiring open proceedings except where, in the opinion of 2/3s of those present, secrecy is required. Finally, Ms. O'Neill stated, the report outlines that Section 14 controls the ability of either house to adjourn, providing that neither may adjourn for more than five days without the consent of the other. Ms. O'Neill indicated that the report and

recommendation describes the work of the 1970s Constitutional Revision Commission on these sections, indicating where amendments were recommended and adopted. She said the report also outlines litigation involving the provisions before describing the discussion and consideration by the committee. She said the report indicates the committee's conclusion that Article II, Sections 6, 7, 8, 9, 13, and 14 should be retained in their current form.

Co-chair Dever thanked Ms. O'Neill for this first presentation of the report and recommendation for Sections 6, 7, 8, 9, 13, and 14 of Article II. There were no comments or discussion offered in relation to these sections.

*Article II, Sections 10 and 12 (Rights and Privileges of Members of the General Assembly)*

Co-chair Dever continued to recognize Ms. O'Neill for the purpose of a first presentation of a report and recommendation for no change to Article II, Sections 10 and 12.

Ms. O'Neill said the report and recommendation describes that Section 10 provides a right of legislative members to protest, and to have their objections recorded in the journal. Discussing Section 12, she said the report and recommendation describes the historic basis for the idea that legislative representatives must be able to freely engage in debate, consult with staff and constituents, and travel to and from legislative session without hindrance. She said the report further describes the work of 1970s Commission, indicating that its Committee to Study the Legislature issued a report in which it concluded that because dissenting legislators now have the ability to publicize their views in the news media, the protest provision is "an anachronism and appropriate for removal." She said the report indicates that, despite this recommendation, the question was not taken up by the full 1970s Commission, and, so remains as it was adopted in 1851. The report indicates the 1970s Commission did not address Section 12, thus, it also remains in its 1851 form.

Ms. O'Neill continued that the report addresses litigation involving the provisions, as well as describing presentations related to the speech or debate clause in Section 12. She said the report and recommendation indicates the committee's discussion and consideration, documenting the committee's conclusion that, because the journal is the official record of the business of the General Assembly, and the member filing the protest can directly control the message being communicated, it is important to retain that right. She said the report also indicates the committee's conclusion that that Section 12 should be retained because legislative privilege helps to maintain the separation of powers, noting that many communications that occur in the executive and judicial branches of government are recognized as privileged. She said the report acknowledges the views of some of the committee that legislators are acting on behalf of citizens and should, as much as possible; maintain transparency as they conduct their duties. In addressing the confidentiality of communications between legislators and legislative staff, she said the report notes committee members' observation that the privilege allows legislators to effectively perform their role.

She said the report and recommendation indicates the Legislative Branch and Executive Branch Committee's conclusion that Article II, Sections 10 and 12 continue to serve the General Assembly and should be retained in their current form.

Co-chair Dever thanked Ms. O'Neill for this first presentation of the report and recommendation for Sections 10 and 12 of Article II. He invited any questions or comments and there were none.

*Article V, Section 2a (Names on the Ballot)*

Co-chair Dever recognized Christopher Gawronski, legal intern, for the purpose of providing a first presentation of a report and recommendation for no change to Article V, Section 2a, relating to the order of names of candidates on the ballot. Mr. Gawronski said the report describes the current provision, deriving from a 1949 constitutional initiative, was intended to bar straight-party voting, emphasizing the candidates for office rather than their political parties by using an office-bloc format. He said the report indicates the provision was subsequently amended twice to clarify how rotation of names on ballots is to occur. He said the report outlines the presentations offered on the issue, including testimony by Matthew Damschroder, assistant secretary of state, who described the current procedure for rotating names on Ohio ballots, as well as by Professor Erik Engstrom, of the University of California, Davis, who discussed the history of ballots in Ohio, and noted Ohio is the only state to prescribe name rotation on ballots by constitutional provision rather than statute. Mr. Gawronski said the report concludes with the committee's sense that the current wording provides the necessary flexibility to the General Assembly to provide for the specifics of name rotation based on the needs of new voting methods and technologies, so that no change is necessary.

Co-chair Dever thanked Mr. Gawronski for this first presentation of the report and recommendation for Section 2a of Article V. He invited any questions or comments.

Sen. Coley indicated the Senate is currently considering how to address an issue that has arisen in some counties where there may be 15 or 20 judicial races on the ballot, and all of the judicial races except for one are uncontested. He said if the one uncontested race is at the bottom of the ballot, it can result in voter drop off. So, he said, there has been discussion about the possibility of allowing the contested race to appear at the top. He offered that issue for the committee to consider.

*Article VI, Section 5 (Loans for Higher Education)*

Co-chair Dever recognized Ms. O'Neill for the purpose of providing a second presentation on a report and recommendation for no change to Article VI, Section 5, relating to loans for higher education. Ms. O'Neill indicated the report and recommendation by the Education, Public Institutions, and Local Government Committee expresses that the section articulates a policy encouraging financial support for state residents wishing to pursue higher education, declaring it to be in the public interest for the state to guarantee the repayment of student loans.

Ms. O'Neill continued that the report describes the history of the section, as well as indicating it has not been amended or reviewed since its adoption. She said the report indicates the section has not been subject to any Ohio Supreme Court decisions. Ms. O'Neill said the report describes that presentations by two former directors of the commissions that oversaw the state student loan program would support the conclusion that the constitutional section is currently nonfunctional, however, the committee recommends the section be retained because it could be necessary in the future to accommodate changes to the federal student loan program, or to support programs that forgive student loan debt in order to foster the provision of needed services in underserved areas

of the state. Thus, she said, the report documents the committee's recommendation to retain the section in its present form.

Co-chair thanked Ms. O'Neill for the presentation. He asked for any comment or discussion and there was none. He then asked for a motion to adopt the report and recommendation. Mr. Gilbert so moved, with Commission member Jo Ann Davidson seconding the motion.

Co-chair Dever asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Davidson – yea  
Gilbert – yea  
Holmes – abstain  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Trafford – yea

The motion passed unanimously, by a vote of 21 in favor, with none opposed, one abstention, and seven absent.

*Article VI, Section 6 (Tuition Credits Program)*

Co-chair Dever then recognized Ms. O'Neill to present a report and recommendation on Article VI, Section 6, relating to Ohio's tuition credits program. Stating the report by the Education, Public Institutions, and Local Government Committee concludes the section should be retained in its current form, Ms. O'Neill described that Section 6 is designed to promote the pursuit of higher education by establishing in the constitution a government-sponsored program to encourage saving for post-secondary education. Ms. O'Neill said the report summarizes the history of the section, indicating it was adopted in order to address concerns about the tax exempt status of college savings plans. Ms. O'Neill said the report indicates these concerns were resolved by changes in the federal tax code that confirmed the exempt status of these "529 plans," so named for the Internal Revenue Code section that describes them. She said the report outlines a presentation to the committee by the director of the agency that oversees the program,

as well as documenting the committee's sense that, although the need for the provision was resolved by the tax code change, the section should be retained because one purpose of the provision is to establish the full faith and credit backing of the state for one of the savings plans offered by the program. She said the report indicates the committee's conclusion that the fact that some accounts are still active may require the constitutional provision to be retained in its current form. Thus, she said, the report concludes Article VI, Section 6 should be retained.

Co-chair Dever thanked Ms. O'Neill for her presentation, and asked if there were questions or comments from the audience or the Commission. There being none, he called for a motion to adopt the report and recommendation. Mr. Saphire so moved, with Mr. Gilbert seconding the motion.

Co-chair Dever asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Davidson – yea  
Gilbert – yea  
Holmes – abstain  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Trafford – yea

The motion passed unanimously, by a vote of 21 in favor, with none opposed, one abstention, and seven absent.

*Article VIII, Sections 2l, 2m, 2n, 2o, 2p, 2q, 2r, 2s (Additional Authorization of Debt Obligations)*

Co-chair Dever recognized Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, for the purpose of providing a first presentation of the committee's report and recommendation on Article VIII, Sections 2l through 2s, relating to the authorization of debt obligations.

Mr. Cole indicated the sections covered by the report and recommendation contrast with other debt authorization sections in Article VIII in that they still have outstanding bonding amounts and are still in use, therefore the report recommends retaining Sections 2l through 2s.

Mr. Cole indicated the report and recommendation outlines that the sections authorize debt to fund projects relating to state infrastructure, and that the sections are relatively recent and, for the most part, have not been amended. He said the report indicates there has been no litigation relating to the sections and concludes that because the bonds are still outstanding, the committee did not recommend change.

Co-chair Dever thanked Mr. Cole and asked if there were questions or comments regarding the report and recommendation. There being none, he called for a motion to adopt the report and recommendation. Mr. Gilbert so moved, with Sen. Coley seconding the motion.

Co-chair Dever asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Davidson – yea  
Gilbert – yea  
Holmes – abstain  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Trafford – yea

The motion passed unanimously, by a vote of 21 in favor, with none opposed, one abstention, and seven absent.

#### *Executive Director Report*

Co-chair Dever recognized Ms. O'Neill for the purpose of providing an executive director's report. Ms. O'Neill indicated that Commission members have been provided a copy of a new edition of the Rules of Procedure and Conduct. She said the edition incorporates changes that were adopted by the Commission in the fall of 2016, indicating that the changes include a

revision to Rule 3.9, providing that a quorum for the purposes of conducting business is 17, rather than 21 members; and a change to Rules 5.4 and 5.5, effectively combining the Public Education and Information Committee with the Liaisons with Public Offices Committee, to form the Public Information and Liaisons with Public Offices Committee.

Ms. O'Neill indicated that, under Rule 3.9, the Commission requires a quorum of 17 members in order to do business such as approving minutes and voting to adopt a report and recommendation for no change. She continued that a quorum for purposes of adopting a report and recommendation for a new constitutional provision, or for a change in an existing constitutional provision remains at 22 members.

### **Old Business:**

Co-chair Dever recognized Mr. Saphire, who asked whether Commission members would be receiving an account of the progress of recommendations that have been forwarded by the Commission to the General Assembly. Co-chair Dever said that the information would be provided and circulated to the Commission when the time is right.

Senator Vernon Sykes asked if new Commission members have been assigned to specific committees. Co-chair Tavares said the new members who are filling legislative member vacancies will be taking the position of the member they are replacing until there is a full complement of commissioners, and then once those appointments are made the decision about committees would be made so that assignments would not have to be done twice.

### **Public Comment:**

Co-chair Dever recognized Don H. Thompson, a member of the public who appeared to speak with the Commission.

Addressing the issue of Congressional redistricting, Mr. Thompson said, in 2015, Ohio took a giant step forward in adopting a better method for shaping voting districts for the state legislature. But, he said, the General Assembly did not take the opportunity to include Congressional redistricting reform. He noted expectations that the overwhelming passage of the 2015 initiative would spur action to end gerrymandered Congressional districts, but, he said, 2016 came and went without progress on that issue. He urged action on the question because, as he noted, "gerrymandered districts have become a major contributor to unproductive political polarization that is definitely on the rise throughout our state and throughout our nation."

Mr. Thompson continued that various citizens' groups have formed a coalition to advocate for fair and competitive voting districts, noting that more than a dozen newspaper editorials also have advocated for change. Mr. Thompson said it is disappointing to see the slow pace of progress by the Commission on this topic. He said he recently wrote to the House Speaker and the Senate President to request a clarification on their position. He said he received a reply from the speaker that indicated he would keep Mr. Thompson's views in mind as he continues to discuss the topic with others. Mr. Thompson indicated his concern that the speaker may not wish to fix the problem prior to the next map re-drawing cycle. He said he has not yet received a response from the Senate President. Mr. Thompson expressed that "more time and money will get spent on this topic because some politicians desire to preserve an unfair hold on political

power.” Mr. Thompson said “the General Assembly is missing an opportunity to demonstrate solid support for fairness principles and make Ohio a model for the rest of the nation.” Mr. Thompson stated that “voters should have a fair opportunity to select their representatives without the back-room political operatives, contracted map-makers, and expensive court-room challenges.”

Mr. Thompson said he would like to see the Commission stop the inertia on the topic, set a brisk pace to propose reform, establish a committed timeline in 2017 for reform, demonstrate that the General Assembly is capable of putting the best interests of constituents first, and persuade leadership that a fair process is needed for the 2021 redistricting cycle.

Mr. Thompson having concluded his remarks, Co-chair Dever thanked him for his presentation. Co-chair Dever then recognized Mr. Jacobson for comment.

Mr. Jacobson indicated that he and Sen. Sykes, who was seated next to him, negotiated the legislative redistricting reform measure. He said he shares Mr. Thompson’s frustration about redistricting reform for the Congressional districts. He said he would point out that if members of the General Assembly wanted to preserve their own easy districts they would not have passed the joint resolution for legislative redistricting reform. So, he said, he thinks “we can be both frustrated with the slow pace on Congressional without it meaning that people were looking out to preserve what matters to them.” He said a big part of last year was spent trying to negotiate and that they thought they had reached a good conclusion in November only to have it undone. He said the one thing that should not be done is to set up a new system of gerrymandering to replace the old one, which is his fear about ballot initiatives, in that the proponents are not neutral. He said it is better if it is done the way Issue 1 was done on the November 2015 ballot, where both sides worked it out together.

**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:40 p.m.

**Approval:**

The minutes of the March 9, 2017 meeting of the Ohio Constitutional Modernization Commission were approved at the April 13, 2017 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

\_\_\_\_\_  
Co-chair  
Representative Jonathan Dever

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Jonathan Dever*  
*28<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, APRIL 13, 2017

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:36 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Dever, and Commission members Abaray, Asher, Beckett, Clyde, Cole, Coley, Craig, Cupp, Davidson, Fischer, Gilbert, Jacobson, Jordan, Kurfess, McColley, Mills, Mulvihill, Peterson, Sapphire, Skindell, Taft, Talley and Trafford in attendance.

#### **Approval of Minutes:**

The minutes of the March 9, 2017 meeting were approved.

#### **Standing Committee Reports:**

##### *Coordinating Committee*

Kathleen Trafford, chair of the Coordinating Committee, reported that the committee approved a report and recommendation from the Judicial Branch and Administration of Justice Committee regarding Article I, Section 8, writ of habeas corpus. She said the committee then took up a report the committee is working on to address the need for gender neutral language in the current constitution. She said the committee also discussed the need to be sure the Commission has an accurate record of its activities, seeking to supplement the record prepared before staff was hired. She said staff has made nonsubstantive corrections, so the Commission will be able to leave a more complete record. She said the documents will be submitted to the individual committees for their review before they become final.

## **Subject Matter Committee Reports:**

### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, said the committee heard a first reading of a report and recommendation concerning the rewrite of the initiative and referendum sections in Article II. He said there is no more confusing part of the constitution, and that the committee has undertaken to rewrite and streamline the process. He said the goal is to make it user-friendly, to modernize it, and to facilitate the initiative process. He said some of the changes are to the statutory initiative, eliminating the supplementary petition, and making it a single petition with a five percent signature requirement, making it easier for people to use the statutory initiative route.

Mr. Mulvihill continued that, since the initiative and referendum process was first adopted in 1912 there has been a significant overuse of the constitutional process and an under use of the statutory initiative process. He said the result is there are many things in the constitution that should not be there. He said the committee's effort was directed toward promoting the use of the statutory initiative, and strengthening the use of the constitutional initiative. On the constitutional side, he said the committee will recommend that constitutional initiatives only get on the ballots in even-numbered years. He said the reason for this is there is a significant drop off in odd-numbered years; thus, it was a policy decision to have more people decide the constitutional amendments. He said the committee also is proposing raising the threshold for passing a constitutional initiative from 50 to 55 percent. He added, since 1912, the statutory initiative has been used 12 times, but only has passed three times. He said there have been 69 constitutional initiatives, with 18 passing. Mr. Mulvihill noted more uptick since then, so that "what we are seeing an overuse of the constitution for things which are not constitutional; it is clogging up the constitution." He said the committee is also recommending gender neutral language, and allowing General Assembly to modernize the signature gathering process to accommodate emerging technology, if it chooses to do so. He said, in aggregate, the proposed changes will provide a much easier process for petitioners, with less litigation as a result. He said the committee also is recommending front-end loading the work of the ballot board, explaining that currently the ballot board does not write the language until the back end after proponents' money and time is spent. He said the committee will recommend language requiring the ballot board to write the language and title before the signatures are gathered so as not to waste time and money.

Regarding the statutory initiative, Mr. Mulvihill said the committee is proposing a safe harbor provision, by which the General Assembly cannot alter an initiated statute for five years absent a super majority in each house. He cited comments by Justice Judith French in an Ohio Supreme Court concurrence in which she asked that the process be modernized.<sup>1</sup> He said the committee

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<sup>1</sup> *Ohio Mfrs. Assn. v. Ohioans for Drug Price Relief Act*, 2016-Ohio-5377, J. French, concurring, at ¶ 50 ("This case highlights the unworkable timeline that Article II, Sections 1b and 1g impose and the need to amend it. Considering the complexity of the initiative-and-referendum process for enacting laws and the large number of signatures that must be collected and verified, getting an initiative on the first general-election ballot following its submission to the secretary of state becomes nearly impossible when the process spawns litigation, as it so often does. \* \* \* The system is broken and calls for modern amendments to fix it. I respectfully ask the Ohio Constitutional Modernization Commission and the General Assembly to address these issues and prevent another situation like this from arising.")

will have a second presentation on the report and recommendation next month, and asked Commission members to contact members of the committee if they have questions.

Commission member Herb Asher commented that, when the committee first started talking about the initiative and referendum, the concern was not so much that the process was unwieldy but that the constitution was being abused to pursue economic interests that should be in statute. He said there was a feeling that the constitution should deal with correct principles, and to encourage proponents to take the statutory route.

Mr. Mulvihill agreed, saying the committee has stuck to that principle, and also lent a hand in promoting the antimonopoly issue that was on the ballot in November 2015.

Asking about the one amendment requirement, Commission member Jeff Jacobson asked whether the recommendations regarding the statutory initiative and the constitutional initiative should be separated for ballot purposes. Mr. Mulvihill answered the committee will propose a single subject amendment because it has redrafted the entire process and there is no way to tease out the two different methods. He said the belief is that recommending it as one ballot will be compliant with the single subject rule because it is a rewrite of the whole initiative process. Mr. Jacobson agreed, saying he is much less alarmed at presenting the recommendation as a single item.

Senator Mike Skindell thanked committee for its work. He said he wants to examine how to place the initiative process in a position that would allow it to be utilized more. He said he is concerned that changes being proposed will only allow those with vast wealth to change the constitution.

Mr. Mulvihill said the committee was cognizant of that concern, and that the changes being recommended are the opposite of that. He said, regarding the statutory initiative, the changes will remove some of opportunity for potential shenanigans in the ballot board review and will save the petitioners money by allowing them to bring a challenge in the Supreme Court immediately if they need to. He said, if petitioners choose the constitutional route, the only change is requiring the proposal to be on the ballot only in even-numbered years and obtaining a 55 percent approval. He said the proposal keeps the same number of signatures, and there is no change to the ballot board process or the secretary of state and attorney general review. He said the committee is constitutionalizing a couple of requirements that are currently in the Revised Code, but regarding constitutional amendments there are no changes that would make the process more expensive.

#### *Education, Public Institutions, and Local Government Committee*

Education, Public Institutions, and Local Government Committee Vice-chair Edward Gilbert reported that the committee had a first presentation of a report and recommendation for repeal of Article VII, Sections 2 and 3. He said the committee would have a second presentation and vote at its next meeting, and bring that report and recommendation to the Commission at first opportunity. Mr. Gilbert said the committee also had a first presentation on Article VII, Section 1, regarding state support for persons with certain disabilities, and has reached a consensus on new language to recommend for that provision. He said the committee also has divided up its remaining sections for review, and will be taking up Article XVIII in May regarding municipal

corporations, and will hear from experts on home rule. He said in June the committee will review Article II, Section 20, dealing with county commissioners, and expects to discuss sections relating to their salaries, with a focus on the idea of having staggered appointments or elections so as to avoid some county commissioners receiving a higher compensation based on when they were elected. He said in July the committee plans to take up Article XV, Section 6, dealing with casinos, and that Senator Bill Coley has some suggestions about that issue.

#### *Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, said the committee has had two presentations of a report and recommendation regarding grand juries. She said there are two aspects to the proposal; one is to have a constitutional right for the accused to be provided with a transcript of testimony of any witness who is called in the actual trial. She said the second proposal is for a grand jury legal advisor, an idea from the Hawaii Constitution that provides the grand jury with an independent advisor separate from the prosecutor to help with legal issues and observe proceedings. She said the committee had a separate vote on the two concepts, and both passed 7 to 1. She said the committee has continued discussion, has heard additional presentations, and has been looking at the issue for 20 months, with speakers that include multiple prosecutors, law school professors, the state public defender, and a grand jury legal advisor from Hawaii. She said the committee voted to postpone the discussion to the next meeting and so has not had a final vote. Ms. Abaray continued that the committee also heard a proposal regarding the Modern Courts Amendment that would have changed some responsibilities or powers from the judiciary to the legislative branch, but that proposal was withdrawn by the sponsor and no one on the committee wanted to pursue it.

#### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee would meet immediately after the full Commission meeting to consider whether it would like to propose constitutionalizing the debt-reporting role of the treasurer of state.

#### **Reports and Recommendations:**

##### *Article I, Section 8 (Writ of Habeas Corpus)*

Co-chair Tavares recognized Ms. Abaray for the purpose of providing a presentation of a report and recommendation for no change to Article I, Section 8, relating to the writ of habeas corpus.

Ms. Abaray indicated the Judicial Branch and Administration of Justice Committee is recommending no change to Article I, Section 8, which reads as follows:

The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

She said the report and recommendation describes that the Bill of Rights as set forth in Article I is a declaration of rights and liberties similar to those contained in the United States Constitution.

The report indicates that habeas corpus is Latin for “that you may have the body.” It is a legal concept originating in early English common law, and was a key aspect of the Magna Carta. The report describes that the principle was embodied in a provision for a formal writ, also called “The Great Writ,” by which a person wrongfully imprisoned could petition the government for release. As currently understood in American criminal law, the writ commands a person detaining someone to produce the prisoner or detainee.

Ms. Abaray continued that the report notes the writ of habeas corpus is preserved in various parliamentary enactments, in the Northwest Ordinance of 1787, in the United States Constitution, and in the first Ohio Constitution in 1802, before being incorporated in the 1851 constitution in its present form. She said the report describes the statutory procedure governing application for a writ of habeas corpus, as well as indicating that the constitution identifies which courts have original jurisdiction over petitions for the writ.

Discussing proceedings of the Constitutional Revision Commission in the 1970s, Ms. Abaray said the report indicates that the 1970s Commission’s review did not “disclose any significant differences between federal and state interpretations or any reasons to recommend changes in the language,” and so recommended no changes. The report also briefly describes Ohio Supreme Court jurisprudence relating to the section, indicating that courts generally determine petitioners for the writ of habeas corpus have an adequate remedy in the form of an appeal, and thus do not qualify for the writ.

Ms. Abaray said the report outlines the committee’s conclusion that the long history of the writ of habeas corpus, as well as the similarities between Ohio’s provision and its counterpart in the U.S. Constitution and other states, indicates that no change should be recommended.

There being no public comment or discussion relating to the report and recommendation, Co-chair Tavares asked for a motion. Mr. Jacobson moved to adopt the report and recommendation, with Representative Robert McColley seconding the motion. Co-chair Tavares asked for a roll call vote, which was as follows:

- Co-chair Tavares – yea
- Co-chair Dever – yea
- Abaray – yea
- Asher – yea
- Beckett – yea
- Clyde – yea
- Cole – yea
- Coley – yea
- Craig – yea
- Cupp – yea
- Davidson – yea
- Fischer – yea
- Gilbert – yea
- Jacobson – yea
- Jordan – yea
- Kurfess – yea
- McColley – yea

Mills – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Taft – yea  
Talley – yea  
Trafford – yea

The motion passed unanimously, by a vote of 25 in favor, with none opposed, and five absent.

Co-chair Tavares announced that, at the Commission's March meeting, a first presentation was provided on several reports and recommendations for no change. She said, according to the Commission's Rules of Procedure and Conduct, because the recommendation was for no change, a second presentation on these reports and recommendations is not required prior to holding a vote on whether to adopt the reports. She said she would briefly reference these reports and recommendations before asking for a motion to approve them.

*Article II, Sections 3, 4, 5, and 11 (Member Qualifications and Vacancies in the General Assembly)*

Commission member Fred Mills moved to adopt the report and recommendation, with Commission member Bob Taft seconding the motion. Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Craig – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Taft – yea

Talley – yea  
Trafford – yea

The motion passed unanimously, by a vote of 25 in favor, with none opposed, and five absent.

*Article II, Sections 6, 7, 8, 9, 13, and 14 (Conducting Business of the General Assembly)*

Mr. Mills moved to adopt the report and recommendation, with Senator Bill Coley seconding the motion. Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Craig – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Taft – yea  
Talley – yea  
Trafford – yea

The motion passed unanimously, by a vote of 25 in favor, with none opposed, and five absent.

*Article II, Sections 10 and 12 (Rights and Privileges of Members of the General Assembly)*

Mr. Mills moved to adopt the report and recommendation, with Commission member Jo Ann Davidson seconding the motion. Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea

Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Craig – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea  
McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Taft – yea  
Talley – yea  
Trafford – yea

The motion passed unanimously, by a vote of 25 in favor, with none opposed, and five absent.

*Article V, Section 2a (Names on the Ballot)*

Commission member Richard Saphire moved to adopt the report and recommendation, with Commission member Kathleen Trafford seconding the motion. Co-chair Tavares asked for a roll call vote, which was as follows:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Craig – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Jacobson – yea  
Jordan – yea  
Kurfess – yea

McColley – yea  
Mills – yea  
Mulvihill – yea  
Peterson – yea  
Saphire – yea  
Skindell – yea  
Taft – yea  
Talley – yea  
Trafford – yea

The motion passed unanimously, by a vote of 25 in favor, with none opposed, and five absent.

*Executive Director Report*

Co-chair Tavares recognized Shari L. O’Neill, interim executive director and counsel, for the purpose of providing an executive director’s report. Ms. O’Neill indicated that the Commission’s new legislative members have been officially appointed to committees and may now participate as voting members. She said Senator Vernon Sykes will join the Education, Public Institutions, and Local Government Committee; Constitutional Revision and Updating Committee; and Public Information and Liaisons with Public Offices Committee. Ms. O’Neill continued that Representative Glenn Holmes will join the Constitutional Revision and Updating Committee; Judicial Branch and Administration of Justice Committee; Public Information and Liaisons with Public Offices Committee. Ms. O’Neill said Representative Hearcel Craig will join the Legislative Branch and Executive Branch Committee; Education, Public Institutions, and Local Government Committee; and Coordinating Committee. Finally, Ms. O’Neill described that the Commission’s Co-chair, Representative Jonathan Dever, will join the Bill of Rights and Voting Committee; the Finance, Taxation, and Economic Development Committee; and the Public Information and Liaisons with Public Offices Committee.

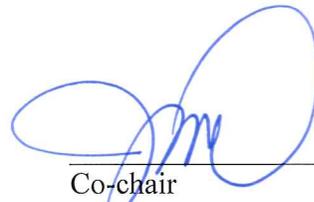
**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 2:12 p.m.

**Approval:**

The minutes of the April 13, 2017 meeting of the Ohio Constitutional Modernization Commission were approved at the May 11, 2017 meeting of the Commission.

  
\_\_\_\_\_  
Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

  
\_\_\_\_\_  
Co-chair  
Representative Jonathan Dever

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Jonathan Dever*  
*28<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, MAY 11, 2017

#### **Call to Order:**

Co-chair Jonathan Dever called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:03 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Dever, and Commission members Abaray, Asher, Beckett, Bell, Brooks, Clyde, Cole, Craig, Cupp, Davidson, Fischer, Gilbert, Holmes, Jacobson, Jordan, Kurfess, Mills, Mulvihill, Peterson, Sapphire, Skindell, Sykes, Taft, Talley, and Trafford in attendance.

#### **Approval of Minutes:**

The minutes of the April 13, 2017 meeting were approved.

#### **Reports and Recommendations:**

Co-chair Dever began the meeting by announcing that Ed Gilbert, who has served as the vice-chair of the Education, Public Institutions, and Local Government Committee, has now been appointed to chair of that committee due to the departure of Chad Readler.

Co-chair Dever then announced the Commission would be receiving presentations on several reports and recommendations, recognizing Richard Sapphire, chair of the Bill of Rights and Voting Committee, for a first presentation on a report and recommendation from that committee.

#### *Article V, Section 2 (Election by Ballot)*

Mr. Sapphire summarized the report and recommendation as providing an explanation of the general background of the section, which requires elections to be by ballot. He indicated that the committee had discussed adding the word "secret" to the requirement in order to embed in the constitution the concept of a secret ballot – a concept that is well-established in Ohio case law.

He said the committee ultimately concluded it was not necessary and could create confusion to add the word “secret,” and so the committee’s report recommends retaining the section in its current form.

There being no comment or discussion on the recommendation, Co-chair Dever noted that, because the recommendation is for no change, a vote may be taken after a first presentation. He called for a motion to adopt the report and recommendation. Representative Hearcel Craig so moved, with Commission member Jo Ann Davidson seconding the motion.

A roll call vote was taken with the following votes recorded:

Co-chair Dever – yea  
Abaray – yea  
Beckett – yea  
Bell – yea  
Brooks – yea  
Clyde – yea  
Cole – yea  
Craig – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – abstain  
Holmes – yea  
Jacobson – yea  
Kurfess – yea  
Mills – yea  
Mulvihill – yea  
Saphire – yea  
Skindell – yea  
Taft – yea  
Talley – yea  
Trafford – yea

The motion passed by a vote of 21 in favor, with one abstention, and eight absent.

*Article VII, Section 1 (Support for Persons with Certain Disabilities)*

Co-chair Dever then recognized Ed Gilbert, Chair of the Education, Public Institutions, and Local Government Committee, for the purpose of providing a first presentation of a report and recommendation for Article VII, Section 1, relating to support for persons with disabilities.

Mr. Gilbert asked Christopher Gawronski, legal intern, to summarize the report and recommendation. Mr. Gawronski described that the report recommends that Section 1 be changed to read:

Facilities for and services to persons who, by reason of disability, require care or treatment shall be fostered and supported by the state, as may be prescribed by the General Assembly.

He continued that the report describes the background of the section, and outlines the committee's discussion of the topic, including reference to the testimony heard by the committee from experts in the field of mental health and disabilities. He said report concludes that the section should be modernized by removing objectionable language and clarifying the state's responsibility with regard to people who are in need of assistance.

Co-chair Dever invited comments or discussion regarding the report. There being none, Co-chair Dever announced that the report and recommendation would be subject to a second presentation and possible vote at the Commission's next meeting. He asked that anyone who would like to hear from speakers on the topic to notify the committee chair or the co-chairs.

*Article VII, Sections 2 and 3 (Directors of Public Institutions)*

Co-chair Dever continued to recognize Mr. Gilbert for the purpose of providing a first presentation of a report and recommendation for Article VII, Sections 2 and 3, relating to directors of public institutions. Mr. Gilbert again asked Mr. Gawronski to assist.

Mr. Gawronski summarized the report and recommendation as concluding that Sections 2 and 3 should be repealed because they no longer have a function in how directors of state institutions are selected. He said the report describes the committee's discussion relating to the sections, and the basis for its conclusion that the sections are obsolete and appropriately would be repealed.

Co-chair Dever invited comments or discussion regarding the report. There being none, Co-chair Dever announced that the report and recommendation would be subject to a second presentation and possible vote at the Commission's next meeting. He asked that anyone who would like to hear from speakers on the topic to notify the committee chair or the co-chairs.

*Recommendation for Gender Neutral Language*

Co-chair Dever then recognized Kathleen Trafford, chair of the Coordinating Committee, for the purpose of providing a first presentation on a report and recommendation relating to the removal of gender-specific language from the Ohio Constitution.

Ms. Trafford summarized the report as indicating the committee's view that gender-specific pronouns and other references in the constitution should be identified and replaced with gender neutral language. She said the report describes that the Constitutional Revision Commission in the 1970s briefly considered the topic but concluded there was no demonstrated need to make a change. She said the committee received presentations from Senior Policy Advisor Steven H. Steinglass, as well as staff, on the topic, and learned that at least ten other states have taken measures to remove such language from their constitutions. She said the report describes the different approaches for modernizing constitutions in this way before concluding that the identification and removal of gender-specific references in the constitution is a task that the Legislative Service Commission could accomplish.

Co-chair Dever invited comments or discussion regarding the report. There being none, Co-chair Dever announced that the report and recommendation would be subject to a second presentation and possible vote at the Commission's next meeting. He asked that anyone who would like to hear from speakers on the topic to notify the committee chair or the co-chairs.

*Article II, Sections 1 through 11, 15 and 17 (Constitutional Initiative, Statutory Initiative, and the Referendum)*

Co-chair Dever then recognized Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, to present for the first time a report and recommendation related to that committee's review of the initiative and referendum process.

Mr. Mulvihill began by thanking Shari L. O'Neill, interim executive director and counsel, and Steven H. Steinglass, senior policy advisor, for their work assisting the committee. He also thanked committee members, particularly noting the success of the committee in leaving partisan politics out of the meetings. He said the committee has made policy judgments, but that they were made in the spirit of preserving the people's right to use ballot initiatives, and did require some give and take among the members. He said, in aggregate, the committee's work reflects the collective wisdom of those judgments and those compromises.

Describing the existing sections of Article II, Mr. Mulvihill said the initiative and referendum provisions contain some of the most confusing and difficult-to-understand language in the constitution. He said the committee's work has been to modernize, streamline, and clear out the density contained in those current provisions.

He continued that the committee has reorganized and rewritten the sections to accomplish its goals. He said the recommendation is the result of four-and-a-half years, during which the committee heard dozens of presentations, received much public comment and input, and had strong bipartisan support for the changes. He said the recommendations were approved by the committee in a unanimous vote.

He said, from the outset, the committee was committed to protecting the strong history of provisions that allow Ohioans the right to initiate laws and constitutional amendments. At the same time, he said, "we have 105 years of history to see what has worked and what has not."

Summarizing the committee's work, Mr. Mulvihill said the committee had a sense the constitutional initiative has been abused over the years, while the statutory initiative has been underutilized. He observed that, since 1913, there have been 69 citizen-initiated constitutional amendments submitted to the voters, with 14 in the last 16 years. He said, of the 69, 18 were approved by the voters, or 26 percent of the time, with the General Assembly having 154 submitted to voters, with 106 approved, for a total of 68.8 percent. He noted that Ohio currently has the tenth longest state constitution in the country, in terms of the number of words.

Since 1913, he said there have only been 12 statutory initiatives submitted to the voters, with only three passing, and only one since 1949. He explained that this means that when the initiative process is used, 85 percent of the time the petitioners use the constitutional route. He said this has resulted in many concepts being implanted, or attempted to be implanted, in the constitution that would be better served being in the Ohio Revised Code.

Mr. Mulvihill said the committee concluded that the most obvious reason for the discrepancy between the over-used constitutional initiative and the under-used statutory initiative is the existence of the supplementary petitions and the lack of protection to initiated laws against interference by the General Assembly.

He said the committee's philosophy was that the state constitution exists to establish the basic framework of government; that there are three branches of government and their relationship to one another; the relationship between state and local governments; and the relationship between citizens and government, primarily through the Bill of Rights.

He continued that what have emerged lately are initiated amendments to the constitution that are inconsistent with the purpose of the constitution. He said, without commenting on the merits of any of these items, but only their placement or attempted placement in the constitution, there has been a trend of placing in the constitution topics such as casino gaming, including the specific land plots for that purpose, age limits for judicial office, smoking bans, minimum wage, treatment in lieu of incarceration for drug offenders, and marijuana legalization, including reference to specific land plots.

He said irrespective of whether someone would support or oppose any of these issues, the committee felt these kinds of initiatives do not really belong in the constitution but rather in the Revised Code. So, he said, the committee's work, in addition to modernizing and making the provisions readable and understandable, was designed to encourage petitioners to take the statutory, rather than the constitutional, route when undertaking the initiative process.

He said the committee also had a goal of reducing the influence of politics and political gamesmanship that occasionally impair the abilities of citizens to get their petitions to the ballot.

He summarized the recommendations as follows:

- Making the sections largely self-executing, consistent with explicit wishes of the 1912 commission;
- Making the statutory initiative more user-friendly by eliminating the supplementary petition and by creating a safe-harbor provision protecting those initiated statutes from amendment or repeal from the General Assembly for five years, absent a 2/3 super majority vote in each house of General Assembly;
- Decreasing the number of signatures required to initiate a statute from six percent (assuming the supplementary petition was needed) to five percent;
- Creating constitutional authority for the initial 1,000 signature petition, submitted to the attorney general, a requirement presently in the Revised Code;
- Creating constitutional authority for the determination by the attorney general that the summary of the initiative or referendum is fair and truthful;
- Requiring initiatives to use gender-neutral language, where appropriate;
- Providing that the one amendment rule applies to both initiated constitutional amendments and legislatively initiated amendments;
- Increasing the passing percentage for constitutional amendments from 50 to 55 percent;
- Permitting initiated constitutional amendments to be on the ballot in even years only, when more people actually vote;

- Providing clarity by specifying dates when proposed statutory and constitutional initiatives can be submitted, and when the attorney general, secretary of state, and ballot board must complete their work;
- Permitting the General Assembly to modernize the signature-gathering process by using electronic signatures;
- Front end loading the work on the ballot board by requiring it to draft the ballot language and title after the petitioners submit the 1,000 signatures to the attorney general, but before the petitioners gather the hundreds of thousands of signatures that are required;
- Allowing the petitioners to suggest ballot language and the title to the ballot board;
- Allowing the petitioners to appeal to the Supreme Court at any time during the process if they are dissatisfied with a ruling from the attorney general, secretary of state, or ballot board; and,
- Retaining the historic role of the attorney general, the secretary of state, and the ballot board in managing the initiative process.

Mr. Mulvihill said the committee recognizes that not all Commission members will like each of the proposed changes. However, he said, the committee strongly believes that, on balance, the suggested changes create a far superior, fairer, and more transparent process for statutory and constitutional initiatives; protect the rights of petitioners to bring their ideas to the voters and reduce the potential for political interference with that right; allow constitutional amendments to be considered by more voters, knowing the significant drop-off between even and odd year elections; and encourage petitioners to use the statutory process, rather than placing in the constitution issues that belong in statutory law.

Mr. Mulvihill said the committee considers the proposals to be in compliance with the single subject requirement because the subject would be “reforming the initiative process.” He noted that the committee approved last-minute amendments to the re-write of the initiative and referendum sections from committee member Senator Vernon Sykes, and the amendments were unanimously approved. However, he said, those amendments were not to the report and recommendation and they do not substantively change the recommendations described by Mr. Mulvihill.

Co-chair Dever invited comments or discussion regarding the report. There being none, Co-chair Dever announced that the report and recommendation would be subject to a second presentation and possible vote at the Commission’s next meeting. He asked that anyone who would like to hear from speakers on the topic to notify the committee chair or the co-chairs.

*Article I, Section 10 (The Grand Jury)*

Co-chair Dever recognized Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, to provide a first presentation of a report and recommendation related to the grand jury portion of Article I, Section 10.

Ms. Abaray said the committee is recommending two changes to the grand jury procedure in Ohio. She said the first change is for language indicating that whenever a grand jury is empaneled, there would be an independent counsel appointed by the court to advise the grand jury on matters before it, with independent counsel being selected from among persons admitted to the practice of law in Ohio.

Ms. Abaray said the other change would require the preparation of a record of all grand jury proceedings, and would afford the accused a right to the record of testimony of any witness who is called to testify at trial. She said the recommended language also states that provision may be made by law regulating the form of the record and the process of releasing any part of the record.

She said the changes were the result of deliberations in her committee over the course of the past two years, noting the decision to address the grand jury process originated with a letter from Senator Sandra Williams in which she raised concerns about the prosecution of cases involving officer-involved shootings. She said that letter was referred to the committee by Supreme Court Chief Justice Maureen O'Connor, upon which the committee began an investigation of the grand jury process. She said the committee considered a wide spectrum of proposals, ranging from making no changes to eliminating the grand jury entirely and going with a preliminary hearing process that is used in some other states.

She said one question they discussed was the importance of secrecy in the grand jury process, and whether there is a way to improve the process so as to increase public confidence while also protecting any benefits that are obtained by maintaining secrecy. She said committee members expressed that it was important for the accused, particularly for those wrongly accused, to retain secrecy so that their reputations would remain intact if there was no reason to prosecute. She said, at the same time, they recognized that the public has had distrust in the grand jury in some high-profile situations, and they also found there is a lot of variability in what happens during grand jury proceedings. She noted the disconnect between the secrecy of the grand jury proceeding and the requirements of transparency and accountability in a democratic system.

Describing the presentations to the committee, Ms. Abaray said the committee heard from prosecutors, public defenders, and professors on this topic. She said in the course of the committee's review, it learned about the system in Hawaii in which they have a grand jury legal advisor as mandated by their constitution. She added that one important aspect of the grand jury is that it is both a jury and an investigative body that is utilized by the prosecution in conducting an investigation. She said this hybrid nature of the grand jury requires a balance of all of the powers and rights involved. She said the committee discussed incidents in which prosecutors have abused the investigatory function of the grand jury. She said a majority of the committee concluded that it would be useful to have a grand jury legal advisor, which would be a person appointed by the court to be present during the grand jury's review of the evidence. She described that person as an arm of the court who would be present to give information on legal issues, answer questions from the jurors, and be a neutral resource. She said the committee's review focused on ways to protect the grand jury's independent function so that jurors are not overly persuaded by the prosecutor to the point that they lose their objectivity. She said they heard from a grand jury legal advisor in Hawaii who reported that it is a smooth process there that has been in place over 40 years.

Ms. Abaray commented on one proposal that suggested approaching cases involving law enforcement or public officials differently from other criminal investigations by having the attorney general prosecute those cases, for example. She said that proposal was seen as problematic because it could raise some equal protection or due process issues. Thus, she said, the conclusion was that the grand jury legal advisor idea was a more comprehensive and less intrusive approach.

As to the transcript recommendation, she said there was much discussion about the value of the transcript to the accused. She said they learned that there is no requirement that grand jury testimony be transcribed, so there is often no transcript created. As a result, she said, the accused at trial does not have the ability to see if there are inconsistencies that might be of value to the defense. The committee heard presentations suggesting that the availability of transcripts would have a chilling effect on the willingness of witnesses to come forward. She said the committee was sensitive to that issue, and therefore the committee's recommendation has limited the proposal to witnesses who also will testify at trial.

She said committee members felt the recommendations were pinpointed and precise, and represented a compromise when compared with a proposal to eliminate the grand jury altogether. She said the committee voted seven to one to recommend the changes set out in the report and recommendation.

Co-chair Dever having left the meeting, Co-chair Tavares invited comments or discussion regarding the report.

Mr. Gilbert asked whether the legal advisor would be an employee of the court. Ms. Abaray answered that the legal advisor would not be affiliated with the prosecutor but would be appointed by the court, and paid by the state as an employee or consultant.

Commission member Doug Cole asked how many grand juries are seated in an average year. Ms. Abaray answered that in the major cities grand juries sit frequently, but in the smaller counties they may only sit once a month. She said the major cities probably would have a full-time need for a grand jury legal advisor, but that other locations would not.

Co-chair Tavares announced that the report and recommendation would be subject to a second presentation and possible vote at the Commission's next meeting. She asked that anyone who would like to hear from speakers on the topic to notify the committee chair or the co-chairs.

### **Standing Committee Reports:**

#### *Coordinating Committee*

Kathleen Trafford, chair of the Coordinating Committee, reported that the committee met earlier and had approved all of the reports being presented to the Commission.

### **Subject Matter Committee Reports:**

#### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, indicated he had nothing further to report to the Commission.

*Education, Public Institutions, and Local Government Committee*

Education, Public Institutions, and Local Government Committee Chair Edward Gilbert reported that he had nothing further to report to the Commission.

*Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, said the committee plans to discuss the topic of civil asset forfeiture at its next meeting.

*Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee discussed making a recommendation about constitutionalizing the treasurer's debt reporting function. He acknowledged that no final recommendation will be possible, but a report documenting a sense of the committee will be forthcoming.

*Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that the committee will be providing a summary report on what has been discussed but not recommended by the committee.

*Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, reported that reapportionment and redistricting was discussed again, but that the committee will not be making a recommendation on that issue.

**Executive Director Report:**

Co-chair Tavares recognized Ms. O'Neill for the purpose of providing an executive director's report. She indicated staff has prepared revised meeting minutes for 2013 through mid-2014, the period before staff came on board. She said the revisions are intended to standardize the format and make needed additions and corrections, and will supplement the record from that period. Ms. O'Neill said the minutes are available for signing by committee chairs and vice-chairs, and also would be available at the next meeting of the Commission.

Ms. O'Neill acknowledged the invaluable assistance of Mr. Gawronski in providing research and writing, as well as staffing committee meetings. She thanked Mr. Gawronski as well as all of the interns who have helped the Commission for their work, indicating it has been a privilege to get to know and work with them.

Finally, Ms. O'Neill announced that two staff members, communications director Shaunte Russell, and administrative assistant Jennie Long, have accepted job offers and will be departing at the end of the month. Ms. O'Neill thanked them for all they have done to make Commission meetings a success, particularly noting Ms. Long's assistance in setting up all of the meetings every month and Ms. Russell's design and maintenance work on the Commission's website. Ms.

O'Neill asked that the Commission join her in wishing them well in their next endeavors, and Commission members offered applause in appreciation for their work.

**Old Business:**

Co-chair Tavares commented on the departure of two staff members while noting that additional work is still needed before the Commission shuts down. She said the co-chairs will again discuss increasing Ms. O'Neill's pay to account for her new position as executive director and covering two jobs. Co-chair Tavares also mentioned the need to obtain assistance for Ms. O'Neill to make up for the loss of staff members.

Remarking on the overall organization of the Commission, Co-chair Tavares noted the difficulties resulting from having the Commission co-chaired by legislators, who often have time conflicts arising from their legislative duties. She said it would have been her recommendation to have the Commission co-chaired by public members.

Adding to Co-chair Tavares' remarks, Senator Mike Skindell recommended making Ms. O'Neill's pay raise retroactive to the time she took on the executive director role and not just going forward. Co-chair Tavares agreed and said they will consider that recommendation.

Co-chair Tavares recognized Mr. Saphire, who announced his intention to raise the issue of Article V, Section 6 (Mental Capacity to Vote) at the June Commission meeting for additional consideration. In response, Mr. Gilbert expressed concern about how, procedurally, a report previously voted on could be brought back. He said he felt the entire issue had been fully discussed and the matter was closed. Mr. Saphire said he recognized a potential procedural issue, and asked for the co-chairs to examine that question at the next meeting.

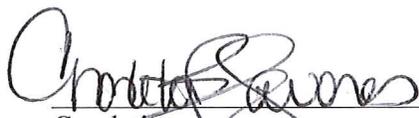
Co-chair Tavares called for public comment and asked if there were new business to come before the Commission and there was none.

**Adjournment:**

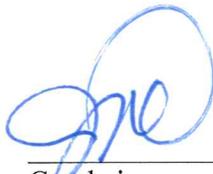
There being no further business to come before the Commission, the meeting adjourned at 1:53 p.m.

**Approval:**

The minutes of the May 11, 2017 meeting of the Ohio Constitutional Modernization Commission were approved at the June 8, 2017 meeting of the Commission.



Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader



Co-chair  
Representative Jonathan Dever

*Co-Chair*  
*Charleta B. Tavares*  
*Assistant Minority Leader*  
*15<sup>th</sup> Senate District*



*Co-Chair*  
*Jonathan Dever*  
*28<sup>th</sup> House District*

## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES FOR THE MEETING HELD THURSDAY, JUNE 8, 2017

#### **Call to Order:**

Co-chair Charleta Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:11 p.m.

#### **Members Present:**

A quorum was present with Commission Co-chairs Tavares and Dever, and Commission members Abaray, Asher, Beckett, Bell, Clyde, Cole, Coley, Cupp, Davidson, Fischer, Gilbert, Holmes, Jacobson, Jordan, Kurfess, Mills, Mulvihill, Peterson, Sapphire, Skindell, Sykes, Taft, Talley, Trafford, and Wagoner in attendance.

#### **Approval of Minutes:**

The minutes of the May 11, 2017 meeting of the Commission were approved.

The minutes of the May 11, 2017 meetings of the Bill of Rights and Voting Committee, the Constitutional Revision and Updating Committee, the Coordinating Committee, the Education, Public Institutions, and Local Government Committee, the Finance, Taxation, and Economic Development Committee, the Judicial Branch and Administration of Justice Committee, and the Legislative Branch and Executive Branch Committee were approved.

The minutes of the May 14, 2015 joint meeting of the Public Education and Information Committee and the Liaisons with Public Offices Committee were approved.

#### **Subject Matter Committee Reports:**

##### *Constitutional Revision and Updating Committee*

Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, indicated the committee met earlier and discussed both the pending report and recommendation regarding the initiative and referendum process as well as Article XVI, relating to the amendment process. He said the committee would have reviewed the constitutional convention process, as well as considering the constitutional commission alternative, if time had permitted.

### *Education, Public Institutions, and Local Government Committee*

Education, Public Institutions, and Local Government Committee Chair Edward Gilbert reported that the committee was to review Article X, Article XV, and Article XVIII, and had divided those sections for nine planned meetings. He said the potential shortened life of the Commission does not permit that review, but nevertheless, the committee's two recommendations regarding Article VII are up for a vote at this meeting.

### *Finance, Taxation, and Economic Development Committee*

Doug Cole, chair of the Finance, Taxation, and Economic Development Committee, reported that the committee will be proposing an addendum regarding assigning debt reporting functions to the state treasurer.

### *Bill of Rights and Voting Committee*

Richard Saphire, chair of the Bill of Rights and Voting Committee, reported that, due to the possible shortened life of the Commission, the committee was not able to conclude its work on a number of sections that had been assigned to it.

### *Legislative Branch and Executive Branch Committee*

Fred Mills, chair of the Legislative Branch and Executive Branch Committee, reported that his committee met 33 times during the life of the Commission, spending 23 meetings on reapportionment or redistricting, three on legislative term limits, three on the single subject rule, and six on a proposal to create a public official compensation commission. He said the committee met with some success on the legislative apportionment issue, and did pass out a term limit proposal that was not discussed in the full Commission. He thanked all members of the committee for their hard work.

### *Judicial Branch and Administration of Justice Committee*

Janet Abaray, chair of the Judicial Branch and Administration of Justice Committee, said the committee has a pending recommendation regarding the grand jury process. She said the recommendation is no longer on the Commission's agenda, but asked on behalf of the committee for the opportunity to discuss it at the appropriate time.

Co-chair Tavares acknowledged Ms. Abaray's request, indicating that she would recognize Ms. Abaray for that purpose later in the meeting.

### **Standing Committee Reports:**

#### *Organization and Administration Committee*

Mark Wagoner, chair of the Organization and Administration Committee, said the committee had not met recently, but would await the decision of the General Assembly regarding the future of the Commission to determine how to proceed.

### *Liaisons with Public Offices Committee*

Herb Asher, chair of the Liaisons with Public Offices Committee said the committee had not met recently and so he had nothing to report.

### *Public Education and Information Committee*

Roger Beckett, chair of the Public Education and Information Committee, agreed with Mr. Asher's assessment, but added that he wished to thank members of the committee for its work in setting up a process early on to allow members of the public to learn of the Commission's activity and to comment on it. He said, based on the many comments and requests to speak that were received in relation to this Commission meeting's agenda, he believes the process they set up was successful.

### *Coordinating Committee*

Jo Ann Davidson, vice-chair of the Coordinating Committee, reported in the absence of Chair Kathleen Trafford, that the committee has taken care of all of the business before it.

### **Reports and Recommendations:**

Before recognizing committee chairs for the purpose of presenting reports and recommendations, Co-chair Tavares said she wished to comment in relation to the suggestion that this would be the last meeting of the Commission. She said the Senate is still debating the biennial budget bill, so there is another branch of government that is debating the issue of whether the Commission lasts beyond the month of June. She said the recommendation to conclude the Commission's work at the end of June was a decision by the House of Representatives. She said, although it is unclear whether this is the last Commission meeting, she does not operate in the area of "what may be," but rather takes the view that, as matters currently stand, the Commission has until December 31 to conclude its business.

### *Article VII, Section 1 (Support for Persons with Certain Disabilities)*

Co-chair Tavares recognized Ed Gilbert, chair of the Education, Public Institutions, and Local Government Committee, for the purpose of providing a second presentation of a report and recommendation for Article VII, Section 1, relating to support for persons with disabilities.

Mr. Gilbert summarized the report and recommendation, indicating the report recommends that Section 1 be changed to read:

Facilities for and services to persons who, by reason of disability, require care or treatment shall be fostered and supported by the state, as may be prescribed by the General Assembly.

Co-chair Tavares asked for public comment, recognizing Michael Kirkman, executive director of Disability Rights Ohio.

Mr. Kirkman thanked the committee for its willingness to engage the disability community in its conversation about the provision. He said several people testified to the committee and assisted with the language, with the result that the recommended language is a vast improvement over the current language in the constitution. He said the recommendation modernizes the language so that it no longer includes outdated, stereotypic, and offensive language to describe people with disabilities, and also includes all people with disabilities who need care and treatment. He said, in addition, the language uses the word “prescribe,” which ties it back to case law relating to the prior provision, clarifying that the General Assembly has the power to enact law to enable the provision. He said, finally, it exchanges the word “institutions” for “facilities and services,” so that it now incorporates the requirements of federal law for community integration, recognizing that most people receive services outside of a specific facility. He encouraged the Commission to adopt the report and recommendation, thanking the committee for its willingness to engage in learning about the needs and interests of the disability community.

Regarding the proposed language, Mr. Cole asked whether the provision might be interpreted as a mandate for spending by the General Assembly. He said the current provision uses the word “shall” but the obligation extends only to certain public institutions, noting the proposal is broader. He referenced case law in the report that indicates the state does not have an obligation to provide for care at private facilities.<sup>1</sup> Mr. Cole said he wondered if the change in language suggests that the case holding would not survive. Mr. Gilbert responded, indicating the issue was discussed by the committee, which concluded that the responsibility is assigned to the state, as in the current language, but stipulated that it would be assigned as prescribed by the General Assembly. He said the committee did not believe that the case outcome would change if the proposed language were adopted.

Commission member Karla Bell asked about the idea that the General Assembly would prescribe limitations on the extent of the state’s responsibility to provide care. Mr. Gilbert answered that the committee discussed at length the idea that authority should not be taken from the General Assembly to determine the type and degree of support the state should provide, but the primary focus was getting rid of the offensive language. He said that the concept of allowing the General Assembly the governing authority was seen as a compromise.

Mr. Cole said he agrees that the language addresses some concerns and poor language in the current provision. He said the current provision also allows the General Assembly to prescribe laws regarding the level of care and that the limiting principle in the case law came from the court’s interpretation that the obligation extended only to public institutions. He said removing the current provision’s requirement that the care be tied to a public institution, and asserting that the part of the provision allowing the General Assembly that authority would not seem to resolve the interpretation asserted by the plaintiffs in *In re Hamil* that the state’s responsibility extends to providing care at a private facility.

Mr. Kirkman pointed out the prescribing language has been interpreted in other Ohio Supreme Court cases, and said that he could supply that information to the Commission. He said the cases make clear that this provision is not self-enabling, and that there is a case from the 1930s that states as much. He said the recommendation uses the exact same language as the current provision, so that it ties back to the older cases.

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<sup>1</sup> *In re Hamil*, 69 Ohio St.2d 97, 437 N.E.2d 317 (1982).

Mr. Saphire asked whether, without this language, the General Assembly lacks authority to provide financial and other support for people with disabilities who reside in non-public institutions. Mr. Kirkman said there has been discussion in other committees about the organic or sovereign nature of the Ohio Constitution and the Ohio General Assembly, which has broad power to enact laws for the general welfare. However, he said, it was felt the current provision, which dates from 1851, was a direction in the constitution in relation to the asylum movement in the 1800s, so that the state would always have the responsibility to foster institutions for the disabled. So, he said, there may be a general power, but the provision provides a specific power and guidance for the state to be able to provide that care.

Mr. Saphire said, to the extent the General Assembly has the authority, that might assuage Mr. Cole's concerns about the unintended consequences of the proposed language.

Mr. Gilbert said he does not see a way the language can be interpreted to create an obligation to provide care at a private institution. Mr. Kirkman agreed that removing the language entirely also could create problems.

Co-chair Tavares then asked for a motion to adopt the recommendation, which was provided by Commission member Petee Talley. Upon a second by Commission member Bob Taft, a roll call vote was taken with the following votes recorded:

Co-chair Tavares – yea

Co-chair Dever – yea

Abaray – yea

Asher – yea

Beckett – yea

Bell – yea

Clyde – yea

Cole – yea

Coley – yea

Davidson – yea

Fischer – yea

Gilbert – yea

Holmes – yea

Jacobson – yea

Jordan – yea

Kurfess – yea

Mills – yea

Mulvihill – yea

Saphire – yea

Skindell – yea

Sykes – yea

Taft – yea

Talley – yea

Wagoner – yea

The motion passed by a vote of 24 in favor, none opposed, and six absent.

*Article VII, Sections 2 and 3 (Directors of Public Institutions)*

Co-chair Tavares continued to recognize Mr. Gilbert for the purpose of providing a second presentation of a report and recommendation for Article VII, Sections 2 and 3, relating to directors of public institutions. Mr. Gilbert summarized the report and recommendation as concluding that Sections 2 and 3 should be repealed because they no longer have a function in how directors of state institutions are selected.

There being no comments or discussion regarding the report, Co-chair Tavares asked for a motion to adopt the report and recommendation, which was provided by Mr. Gilbert, with a second by Commission member Karla Bell.

A roll call vote was taken with the following votes recorded:

Co-chair Tavares – yea  
Co-chair Dever – yea  
Abaray – yea  
Asher – yea  
Beckett – yea  
Bell – yea  
Clyde – yea  
Cole – yea  
Coley – yea  
Davidson – yea  
Fischer – yea  
Gilbert – yea  
Holmes – yea  
Jacobson – yea  
Kurfess – yea  
Mills – yea  
Mulvihill – yea  
Saphire – yea  
Skindell – yea  
Sykes – yea  
Taft – yea  
Talley – yea  
Wagoner – yea

The motion passed by a vote of 23 in favor, none opposed, and seven absent.

*Article II, Sections 1 through 1i, 15 and 17 (Constitutional Initiative, Statutory Initiative, and the Referendum)*

Co-chair Tavares then recognized Dennis Mulvihill, chair of the Constitutional Revision and Updating Committee, to present a second reading of a report and recommendation related the constitutional initiative, statutory initiative, and referendum process in Article II.

Mr. Mulvihill began by thanking staff and members of the committee for their hard work on the recommendation. He said the committee strove to keep partisan politics out of its deliberations, and that the committee's judgements were made in the spirit of preserving the people's right to use ballot initiatives. However, he said those decisions required some give-and-take among committee members, who worked on these issues for years. He said the final product reflects the collective compromises and judgements of the committee. He said the committee set out with strong bipartisan cooperation and came to its conclusions in a non-partisan way. He said the recommendation had unanimous support in the committee and reflected that broad spectrum of cooperation.

Mr. Mulvihill continued that, currently, Article II contains some of the most confusing and difficult-to-understand language in the constitution, and the committee's work has been to modernize, streamline, and clear out the density contained in those provisions. He said, to that end, the committee has reorganized Article II, and rewritten the sections to accomplish its goals. He said, during its work over four-and-a-half years, the committee heard dozens of presentations and benefited from public comments and input at nearly every meeting, including from its most loyal attendees, the League of Women Voters, and incorporated most of what was heard. He said from the outset the committee was cognizant of the strong history that supports allowing Ohio citizens to effect amendments and laws. At the same time, he said, the committee had the benefit of 105 years of history to see what has and has not worked. He said, in summary, the committee felt that the constitutional initiative has been overused while the statutory initiative has been underused over the years. He then cited statistics indicating how often the constitutional initiative process has been successfully used, noting that legislatively-initiated amendments enjoy a more-successful, 70 percent passage rate. He said many items have been placed in the constitution that would have been better served as statutes. He said the committee concluded that the reason for the underuse of the statutory initiative process is the requirement of a supplemental petition, and the lack of protection to initiated laws, concluding that the committee's recommendation endeavors to fix those problems.

He said one goal of the committee was to reduce the influence of politics and political gamesmanship that occasionally impair the ability of citizens to get their petitions to the ballot. He then summarized the committee's recommendations, which include:

- Making the sections largely self-executing, consistent with explicit wishes of the 1912 commission;
- Making the statutory initiative more user-friendly by eliminating the supplementary petition and by creating a safe-harbor provision protecting those initiated statutes from amendment or repeal from the General Assembly for five years, absent a 2/3 super majority vote in each house of General Assembly;
- Decreasing the number of signatures required to initiate a statute from six percent (assuming the supplementary petition was needed) to five percent;
- Creating constitutional authority for the initial 1,000 signature petition, submitted to the attorney general, a requirement presently in the Revised Code;
- Creating constitutional authority for the determination by the attorney general that the summary of the initiative or referendum is fair and truthful;
- Requiring initiatives to use gender-neutral language, where appropriate;
- Providing that the one amendment rule applies to both initiated constitutional amendments and legislatively initiated amendments;

- Increasing the passing percentage for constitutional amendments from 50 to 55 percent, with the idea, if Ohio is a 50-50 state, there should be at least some bipartisan support for a petition to amend the constitution;
- Permitting initiated constitutional amendments to be on the ballot in even years only, when more people actually vote;
- Providing clarity by specifying dates when proposed statutory and constitutional initiatives can be submitted, and when the attorney general, secretary of state, and ballot board must complete their work;
- Permitting the General Assembly to modernize the signature-gathering process by using electronic signatures;
- Front end loading the work on the ballot board by requiring it to draft the ballot language and title after the petitioners submit the 1,000 signatures to the attorney general, but before the petitioners gather hundreds of thousands of signatures and spend hundreds of thousands of dollars – a proposal that represents another attempt to minimize the politics in the process;
- Allowing the petitioners to suggest ballot language and the title to the ballot board;
- Allowing the petitioners to appeal to the Supreme Court at any time during the process if they are dissatisfied with a ruling from the attorney general, secretary of state, or ballot board; and,
- Retaining the historic role of the attorney general, the secretary of state, and the ballot board in managing the initiative process.

He said the committee understands that not every member of the Commission will like each of these recommendations, but in aggregate the committee feels that this is a significant improvement over the current process.

Wishing to address some of the objections to the proposal, Mr. Mulvihill said there have been many letters to the Commission, as well as a proposed amendment that would equalize the 55 percent requirement with the passage rate requirements for amendments that come from the General Assembly. He said the committee did discuss this, and concluded that over the years there has been no evidence of abuse of the process by the General Assembly, as shown by the nearly 70 percent adoption rate of amendments proposed by the legislature. He said the constitution has a requirement that no amendment can get out of the General Assembly without at least 60 percent approval, so there is already a supermajority requirement before a legislatively-proposed amendment gets to the ballot. He said that fact, compared to the poor track record of citizen initiated amendments in recent years, convinced the committee there was no need to equalize the proposals. He said as the chair he sees no problem with making the General Assembly subject to the same requirements, but that particular issue should not de-rail the long work of the committee in taking politics and politicians out of the process and enabling citizens to get their issues to the ballot.

Mr. Mulvihill having concluded his presentation, Co-chair Tavares indicated that Commission member Jeff Jacobson had requested the opportunity to speak prior to public comment on the pending recommendation. She said that she recognized that members of the public were present and wish to speak, and that she does not want to limit their opportunity to address the Commission.

Mr. Jacobson said he appreciates the involvement of the public to bring issues to the Commission's attention, noting that there have been many comments over the last month regarding the issue that he has found persuasive. He said that, like the grand jury proposal by the Judicial Branch and Administration of Justice Committee – a proposal that was removed from the agenda because of significant opposition – the initiative and referendum proposal places the Commission in a position of considering a proposal with significant opposition from both the left and the right. He commended the members of the committee who worked on the proposal for such a long time. He said he regrets that those who may have worked behind the scenes to bring objections could not have shared that earlier with members of the committee as they worked on the recommendation. He said in other committees he has worked on where there was a sense that there would be opposition, the objections would be raised earlier in the process so as to avoid a situation in which members who are unpaid and, for the most part, unpolitical, end up venturing into places where they become the target of a political fight that they had no idea they would be wandering into. He said he does not think the proposal has the number of votes needed to pass, and he respects the fact that many people have come here to testify, but he does not believe that the show of opposition is completely organic. He said there are some who would like to use the opportunity to humiliate the people who worked on this in an attempt to score some partisan points. He said he regrets that, and hopes he is wrong.

Saying he recognized that the proposal needs more work in order to have any chance of passage, Mr. Jacobson then moved that the proposal be referred back to the committee, a motion that was seconded by Senator Bill Coley.

A roll call vote was taken with the following votes recorded:

Co-chair Tavares – no  
Co-chair Dever – yea  
Abaray – no  
Asher – no  
Beckett – yea  
Bell – yea  
Clyde – no  
Cole – yea  
Coley – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – no  
Holmes – no  
Jacobson – yea  
Kurfess – no  
Mills – yea  
Mulvihill – no  
Peterson – yea  
Saphire – no  
Skindell – yea  
Sykes – no  
Taft – no

Talley – no  
Trafford – no  
Wagoner – yea

The motion tied, with a vote of 13 in favor and 13 opposed, with four absent.

Co-chair Tavares announced that the motion failed, and indicated the Commission would now entertain public comment. Mr. Jacobson indicated he would renew the motion at first opportunity.

Co-chair Tavares recognized Jack Boyle, a witness who indicated his strong objection to the recommendation, particularly with regard to the “double standard” he perceived between the requirements for passage of a citizen’s constitutional initiative petition as versus an amendment proposed by the General Assembly.

Co-chair Tavares next recognized M. Dane Walters, of the Initiative and Referendum Institute at the University of Southern California, who testified that he was present to provide historical perspective on what is being considered, rather than to testify in favor or against the proposal. Mr. Waters provided written testimony in support of his appearance. Mr. Waters said Ohio would be an outlier if it proposed a different percentage for passage of a citizen’s constitutional initiative as opposed to a legislatively-proposed initiative.

Co-chair Tavares recognized Robert Ryan, executive director of the Ohio Patient Network, a medical marijuana advocacy group. Mr. Ryan stated that, while some aspects of the proposal are positive, he encouraged the committee to drop the 55 percent passage requirement.

Mr. Jacobson commented that he wished to clarify that the recommendation was primarily worked on by the public members of the Commission and that this was not a situation of the General Assembly attempting to write itself a privilege.

Co-chair Tavares recognized Ron Alban, a witness who testified against the proposal. Mr. Alban provided written testimony in support of his appearance. He urged the Commission to refer the proposal back to the committee, and to take a position that there should be the same standard for all amendments.

Co-chair Tavares recognized Corey Roscoe, of the Humane Society of the United States, testified against the supermajority requirement in the proposal. Ms. Roscoe provided written testimony in support of her appearance. She said across the nation citizens have successfully taken animal welfare proposals to the ballot in the initiative petition process.

Co-chair Tavares recognized Mr. Asher for his comments. Mr. Asher said he wished to remind everyone that the committee entered into the discussion with the motivation of making the citizen initiated statute a more attractive option, for the reason that the committee thought there were groups that were not individual citizens but rather highly wealthy business, labor, or other groups who were trying to put things in the constitution that probably should be in statute. But, he said, the committee also recognized that the legislature can just undo initiated statutes, and so the committee had, as part of its proposal, a five-year protection against that happening, in order to make the initiated statute route more attractive. He said the committee has included other

things that make it a better opportunity for citizens to pursue an initiated statute, including eliminating the need to get a second round of signatures. So, he said, that was really the motivation. He said, now hearing the objections to the size of the majority in the proposal, in hindsight he wishes that proposal was not included because it provides an opportunity for people to say the committee is being anti-citizen or anti-democracy. In fact, he said, it is just the opposite, and the committee also was concerned about protecting the constitution. He said there are certain things that should not be in the constitution but rather should be in statute. He said he thinks the committee has come up with a number of significant recommendations, and the 55 percent requirement is not central, nor is the even-year vote requirement, although he understands why people are upset about those things. He said his worry is that a lot of good work has been done, but he has a sense that if they vote to send it back to committee nothing would happen and the Commission would lose a lot of good work.

Co-chair Tavares recognized Senator Vernon Sykes for comment. Sen. Sykes said he applauds the committee for its work to make strong recommendations for improvement. He said he believes much of what they have done is progressive and would modernize the constitution. He said, however, there are some aspects of the proposal he would like to see amended. He asked whether it would be possible to consider dividing the proposal and voting on different parts of it.

Mr. Mulvihill, called on to respond, first noted that the committee had been working on this for the last four-and-a-half years, and the recommendations should not come as a surprise to anyone present to provide testimony on the last day. He said it was never the committee's intent, nor is it their product, that they are denying citizens the right to initiate laws or amendments, and that to state otherwise is a mischaracterization. With regard to the issue of dividing the proposal, Mr. Mulvihill said the committee has essentially rewritten the whole section, making dozens of changes. He said it would not be possible to divide the proposal in order to adopt some, but not all, of it.

With regard to the proposal's requirement of even-year elections, Mr. Mulvihill clarified that that recommendation was due to information indicating that fewer voters vote in odd-year elections, with the drop-off figure being enormous, sometimes as many as two or three million people. He said it was the collective view of the committee that more eyes on an amendment are better than fewer eyes, with a goal of making the constitution better and stronger. He noted that, in Nevada, a citizen's initiative must be proposed in two consecutive elections, thus, it is not true that the recommendation under review, if adopted, would be unique in raising the bar for passing initiated amendments. He said the committee did not see any data or have any presentations indicating a problem with legislatively-proposed amendments, and so it saw no need to equalize the passage rate between the two types of amendment.

Mr. Jacobson said while he applauds the committee's recognition that the constitution has been abused by proponents of issues that would be better served by seeking a statutory route, he noted another problem Ohio does not have is an overuse of the initiative process to the point where things get locked into law and the legislature becomes superfluous. He said the legislative process does something that the initiative process does not – it provides for an opportunity over time for the public to hold people accountable by voting them out of office. He said, in California, there have been "hit and run" initiatives that wreck the state's fiscal system. He noted Ohio instances when people, in his view, have wrecked the state's constitution on behalf of the casino industry, for example. He agreed it is impossible to separate out the parts of the

proposal without doing violence to the whole because the entire process was the product of a compromise.

Mr. Jacobson renewed his motion to refer the proposal back to the committee. He said he had no strong opinion before reading the submitted letters and testimony, but now he believes the proposal as written should not pass and that no single amendment would change his view.

Mr. Beckett seconded the motion to refer the proposal to committee, and Co-chair Tavares called for a roll call vote.

Sen. Sykes raised a point of order, asking whether the motion could be renewed because comment had already been allowed on the issue on the table. Co-chair Tavares asked whether Mr. Jacobson was willing to hold his motion until testimony was complete. Co-chair Tavares indicated that members of the public who were present to testify should be permitted to speak, regardless of whether the motion to refer the recommendation back to committee passed.

Mr. Jacobson indicated his intent to go forward with the motion.

Mr. Asher asked whether there was a point to referring the proposal back to the committee if the Commission is to be terminated at the end of June. Co-chair Tavares reiterated her earlier point that the proposal by the House of Representatives to eliminate the Commission as of June 30 is still under debate and has not been finalized. Therefore, she said, at this point, there is a recommendation to move the proposal back to the committee, which is what the Commission is operating under.

The roll was called, with the following votes recorded:

Co-chair Tavares – no  
Co-chair Dever – yea  
Abaray – no  
Asher – no  
Beckett – yea  
Bell – yea  
Clyde – no  
Cole – yea  
Coley – yea  
Cupp – yea  
Davidson – yea  
Fischer – yea  
Gilbert – no  
Holmes – no  
Jacobson – yea  
Jordan – yea  
Kurfess – no  
Mills – yea  
Mulvihill – no  
Peterson – yea  
Sapphire – no

Skindell – yea  
Sykes – no  
Taft – no  
Talley – no  
Trafford – no  
Wagoner – yea

The motion failed, with a vote of 14 votes opposed, 13 votes in favor, with three absent.

Co-chair Tavares recognized Greg Pace, co-founder of the Columbus Community Bill of Rights, and board member of the Ohio Community Rights Network. He said that actions by the office of the Ohio Secretary of State have curtailed citizens' rights to put initiative items related to county charters on the ballot. He said while he agrees with the proposal to eliminate the supplemental petition requirement from the statutory initiative process, he does not agree that the passage requirement should be raised to 55 percent. Mr. Pace provided written testimony in support of his appearance.

Mr. Jacobson commented that the proposal does not have any reference to county charters, and Mr. Pace agreed, indicating he noted that situation as background as to why he wished to testify on this issue.

Co-chair Tavares recognized Bob Krasen, who provided written testimony in support of his appearance. He said he objects to the requirement that a citizen initiated petition receive 55 percent of the vote, when the legislature is not under the same requirement.

Co-chair Tavares recognized John Adams, a former legislator, who testified that the proposed language serves the desires of the legislature and hurts the people's ability to initiate an amendment. He also objected to the even-year requirement in the proposal on the basis that it imposes a requirement on the public that the legislature does not have. He also objected to requiring the petition to be reviewed by the ballot board prior to circulation, and to the requirement that the proposed amendment be determined to be a single amendment. He said the proposal strips parity and gives more power to the politicians in the legislature.

Ms. Abaray commented that, as a member of the committee, she has not heard anyone come to the committee to voice concerns such as Mr. Adams voiced. She said the committee worked with the League of Women Voters to find the best language. She said the committee was not primarily comprised of legislators. She said, while she can appreciate these are important issues to many people, she personally was interested in protecting the constitution from the whims of the voters, so that she favors the 55 percent requirement, and would even have favored a 60 percent requirement, as the United States Constitution cannot be changed without a two-thirds majority vote. She said the committee's conversation focused on whether the constitution deserved more stability than a statute. She said while it is important to protect the people's right to change their constitution, it is also important to protect the people's ability to rely on their constitution. She said there was no malicious intent on the part of the committee in issuing its recommendation. She said this has been a sincere effort of people who gave a lot of their time and the last thing they wanted to do was to undercut the rights of the public.

Co-chair Tavares recognized Paul Jacob, the president of Citizens in Charge, an organization he said supports the initiative and referendum process. Mr. Jacobson submitted written testimony in support of his appearance. He said he objects to the proposal's requirement of a 55 percent passage rate. He said the constitution belongs to the people of Ohio, and it is essential that it be open to the people and not held away from them. He said the changes to the statutory initiative process that were intended to improve it were paired with changes to the constitutional initiative process that puts the legislature in a more advantageous position.

Co-chair Tavares recognized Commission member Charles Kurfess, who moved that the issue before the Commission be laid upon the table. The motion was seconded by Mr. Jacobson.

Co-chair Tavares recognized Doug Cole, who asked whether the Commission had a quorum. It was determined that there were sufficient members in attendance to allow the vote to go forward, and Co-chair Tavares asked staff to call the roll.

The roll was called, with the following votes recorded:

Co-chair Tavares – yea

Co-chair Dever – yea

Abaray – yea

Asher – yea

Beckett – yea

Bell – yea

Clyde – no

Cole – yea

Davidson – yea

Gilbert – yea

Jacobson – yea

Kurfess – yea

Mills – yea

Mulvihill – yea

Saphire – yea

Skindell – yea

Sykes – yea

Taft – yea

Talley – yea

Trafford – yea

Wagoner – yea

The motion passed, with a vote of 20 in favor, one opposed, with nine absent.

#### *Recommendation for Gender Neutral Language*

Co-chair Tavares recognized Kathleen Trafford, chair of the Coordinating Committee, who described, on second presentation, a report and recommendation from her committee that recommends that gender-specific language in the constitution be neutralized. She said the basis for the recommendation is self-explanatory, and the report's attachment contains various examples of the types of gender-specific references in the constitution that would require change.

She noted two particular instances in which worker's compensation is referred to as "workmen's compensation," and where the chief justice of the Supreme Court is described as "he." She said times have changed since 1802, and she said she would move that the Commission adopt the report.

Mr. Jacobson raised a point of order that, due to the departure of members, the Commission lacked a quorum of 22 members required to vote on a motion for a change to the constitution. Co-chair Tavares agreed, indicating that the motion would not go forward but that it was important to allow Ms. Trafford the opportunity to give her report for the record.

### **Executive Director Report:**

Co-chair Tavares recognized Shari L. O'Neill, interim executive director and counsel, for the purpose of providing an executive director's report.

Ms. O'Neill acknowledged the many people who gave their time to assist the Commission, including elected officials, judges, attorneys, professors, educators, representatives of state and local governments, members of public interest groups, trade organizations, and think tanks, school board members, financial experts, public assistance agencies, and concerned citizens. She said that staff's requests for assistance were always met with enthusiasm, commenting that "whether they provided scholarly reflection, legal analysis, or practical knowledge, these individuals gave committee members important insight into the operation of the constitutional provision in question." She thanked them on behalf of the Commission for their contribution.

Ms. O'Neill also thanked the many members of caucus staff and the legislative aides who provided assistance throughout the life of the Commission, specifically identifying Lizz Lewis, Pavan Parikh, Bethany Sanders, Frank Strigari, Sheila Willamowski, and Sarah Cherry. She noted that numerous legislative aides helped staff committee meetings, particularly acknowledging Tim Johnson, Chris Smith, and Justin Hucke who were helpful both to their individual members and to OCMC members as a whole and, especially, to staff.

Ms. O'Neill also recognized the efforts of Steven H. Steinglass, senior policy advisor, commenting that Mr. Steinglass's expertise was an important part of this project from its inception. She stated, "As we explored all the nooks and crannies of the document, Steve always provided important context and extensive knowledge based on his many years of scholarly work. He was always eager to help solve any puzzle the committees encountered, and we all have benefited from his commitment to this process."

Ms. O'Neill acknowledged Peg Rosenfield, elections specialist with the League of Women Voters of Ohio, noting that she had been present in the audience for nearly all of the Commission and committee meetings, and also had attended meetings of the Ohio Constitutional Revision Commission in the 1970s. Ms. Rosenfield addressed the Commission, thanking staff for its research, and humorously commenting that if there is a constitutional convention or commission in 2032, she intends to haunt it. Ms. O'Neill followed up by commending Ms. Rosenfield for her dedication, and thanking her for her service to the Ohio Constitution.

Finally, Ms. O'Neill expressed her appreciation for having been giving the honor of serving as counsel and interim director, saying she is grateful for the chance to get to know both the Ohio Constitution and the members of the Commission, whom she thanked for their leadership.

**Old Business:**

Co-chair Tavares recognized Ms. Abaray, who said she first wished to acknowledge Ms. O'Neill's role assisting the Commission after the departure of Steven C. Hollon, the former executive director, in addition to her other position as counsel. Ms. Abaray said the Commission had discussed that Ms. O'Neill would be compensated properly and retroactively for her role, but is not aware that this has occurred.

Ms. Bell said she strongly seconded Ms. Abaray's comments, encouraging the co-chairs to address the situation.

Mr. Wagoner said he agreed that Ms. O'Neill has done a great job, indicating that there is money in the budget to appropriately compensate Ms. O'Neill. As chair of the Organization and Administration Committee, he urged the co-chairs to take Ms. O'Neill's performance into account and give her just pay.

Mr. Sapphire said he would reaffirm what the others said regarding Ms. O'Neill, noting the dramatic improvement that hiring staff made in the efficiency of the work of the committees.

*Article I, Section 10 (The Grand Jury)*

Co-chair Tavares then returned to Ms. Abaray, allowing her to continue with the second part of her remarks, relating to the recommendation of the Judicial Branch and Administration of Justice Committee regarding the grand jury process.

Ms. Abaray said that, although the decision was made not to vote on her committee's recommendation regarding Article I, Section 10, relating to the grand jury, she wished to comment for the record on the work of the committee on that topic. She said the committee approved a provision that would make two changes to the grand jury process in Ohio, making those recommendations after a long deliberation. She said that if the Commission continues, she hopes that these recommendations will get a review. She said the committee realized secrecy has a purpose in the process by protecting someone under investigation from having their reputation ruined, and the committee felt it was important to protect that practice. She added the committee recognized that some witnesses would not be willing to testify in open court but would be willing to do so behind closed doors. She said, at the same time, the committee considered that there is no oversight into the way grand juries are conducted in Ohio, and that prosecutors have full discretion, full authority, with no one supervising what is occurring in the grand jury room.

Ms. Abaray said, while prosecutors assured the committee they are conscientious and there is no need for oversight, the committee also heard testimony that caused concern. She said one part of the testimony concerned her, because it suggested that certain accused individuals are permitted rights before the grand jury that others are not. In particular, she said, an incident was cited in which a college student under investigation for sexual assault was permitted to testify in his own defense – a circumstance that created a “he said – she said” situation that was less likely to result

in an indictment. She said that disturbed her because people accused of other types of crime would not be afforded that right. She said if the public knew about that type of activity by prosecutors, they could address it by voting them out of office, but no one knows about it because the process occurs in secret.

She said that testimony compelled her to think that more oversight of the grand jury process is needed. She said the proposal the committee came up with does not really change anything, it just has an attorney in the room who is appointed by a judge and who is responsible to the judge. She said the committee learned that the grand jury process originally was overseen by a judge, but that changed over the years and prosecutors took on a larger role. She said the proposal puts the judge back in control by having an observer there who reports to the judge. She said there is a value to oversight and this is why she supported that recommendation.

Ms. Abaray said the second part of the recommendation, requiring a transcript to be provided to the accused, came out of a concern that the defense was not being given the opportunity to use grand jury testimony to impeach a witness because no transcript was made or provided to the defense as a matter of course, and there is no other way for the accused to know what was said in the grand jury room. She said a concern about grand jury witness protection should not matter because the transcript would only be available if the witness is going to testify at a public trial – and a witness willing to testify at trial should not be as concerned about making the transcript of the grand jury testimony available. She said if the Commission does not meet again, she would encourage citizens or the legislature to take up these concepts because the committee did hear from state senators and others who are concerned about secrecy and accountability in the grand jury.

#### *Article V, Section 6 (Mental Capacity to Vote)*

Co-chair Tavares then recognized Mr. Jacobson and Ms. Bell as members of the Bill of Rights and Voting Committee to bring up an issue relating to Article V, Section 6, mental capacity to vote.

Mr. Jacobson indicated that they had intended to make a motion, but lacking a quorum, they instead would note that it is unfortunate that one blight on the Commission's otherwise positive record is the failure to come up with a proposal that removes from Article V the offensive and derogatory reference to "idiots or insane persons." He said he hopes he reflects the sentiments of Commission members that, while the Commission could not agree on the proper formulation, it would urge the legislature to find a way to get that reference removed from the constitution.

#### **New Business:**

##### *Addendum to Report and Recommendation*

##### *Article VIII, Sections 7 through 11 (The Sinking Fund and Sinking Fund Commission)*

Co-chair Tavares recognized Mr. Cole, who indicated that members of his committee had intended to obtain Commission approval for an addendum to a report and recommendation already issued by the Commission in relation to Article VIII, Sections 7, 8, 9, 10, and 11, the Sinking Fund and the Sinking Fund Commission. He said if those sections ultimately are removed, as recommended by the Commission, the removal would result in the removal of

certain debt reporting obligations that are assigned to the sinking fund commission. He said the Finance, Taxation, and Economic Development Committee heard testimony indicating that, if the General Assembly elects to move forward with that recommendation, it may be good to assign a debt reporting function to the state treasurer, either through a constitutional amendment or by statute. He said the goal of the addendum is to keep it on the radar for the General Assembly that there is a salutary effect to having transparent debt reporting so that the citizens and the General Assembly would have information about the state debt.

Co-chair Tavares recognized Ms. Davidson, who said that since the report and recommendation has already gotten the 22 votes needed to move on, it could be acceptable to pass the addendum with fewer than 22 votes. Ms. Davidson urged the Co-chairs to allow a vote, based on the concept that this action would not have the same status as adopting a report.

Mr. Mulvihill noted that the rules indicate that only 17 members are needed to approve an action.

On a recommendation to conduct a voice vote, Co-chair Tavares noted a motion by Mr. Cole, with a second by Ms. Davidson. She then asked for all in favor to so indicate, and the motion passed unanimously.

#### *Final Work Product of the Commission*

Co-chair Tavares recognized Mr. Sapphire, who stated that one unfortunate result of the current status of the Commission is that reports and recommendations have not been acted on, with the particular problem that the constitution is being left with the word “idiot” in it. He said it is his sense the Bill of Rights and Voting Committee, as well as the Commission, considers that word to be wrong. He said he reviewed what occurred in relation to Article V, Section 6 in the 1970s, and found that the 1970s Commission resolved to eliminate the word “idiot” and the record of that Commission is silent with respect to what happened to that recommendation. He said he would hate this process to end with some recommendations that have not been acted on, for whatever reason, and a future commission to look back at this Commission record with the same questions about why changes did not come about. He said it might be a good idea if someone went back over the proposals and provided something in the record to indicate to successors what happened to them.

Co-chair Tavares said that idea is one that could be assigned to Mr. Steinglass to summarize where the Commission is with respect to those issues that have been recommended to the full Commission that have not been voted on so that at least there is a full record. She noted the meeting also would be preserved on video, which is why the Commission is attempting to put so much into the record during the meeting.

Mr. Steinglass said the 1970s Commission made 63 recommendations to the legislature, 21 of which disappeared. He said some of them never got introduced as joint resolutions. He agreed that some time could be spent to complete the record.

Co-chair Tavares called on Sen. Sykes for his comments. Sen. Sykes said, as an original co-chair of the Commission, the group had a slow start, perhaps rightly because it took time to get information and to bond as a group. He said the Commission did accomplish a lot. He expressed appreciation to all the members for their time, commitment, and contributions to the

project. He noted that the amendment he was prepared to offer in relation to the initiative and referendum process was not intended to take away from the work of the committee but instead to salvage it. He complimented the committee for its work on that issue.

Co-chair Dever thanked everyone for their diligence and hard work. He said he knows at times it has been a tedious process. He said the job of legislative members on the Commission is to help bring these issues to the attention of the voters, and that this is not the end of the conversation. He said the next step will be to take these concepts to the General Assembly and work through the recommendations and ideas that have been brought forward. He said that he and Co-chair Tavares would be continuing to work on the matters that have been raised.

Co-chair Tavares thanked Co-chair Dever for his leadership, and for his partnership as a co-chair. She thanked everyone for their commitment to the work of the Commission. She said although it took a lot of time to get up and running, the Commission had a dedicated staff, as well as assistance from legislative staff, and this helped the Commission to move along. She thanked the original co-chairs, Sen. Sykes and Speaker William Batchelder. She said it is unclear if the Commission will continue, but that the legislative members will do what they need to do to bring those proposals forward as joint resolutions. She thanked Ms. O'Neill for her work and indicated she should be compensated fairly, and that she would be working with Co-chair Dever on that issue.

She said they will keep the members and the public apprised of what happens next with the Commission as the budget issue develops in the General Assembly.

**Adjournment:**

There being no further business to come before the Commission, the meeting adjourned at 3:41 p.m.

**Approval:**

The minutes of the June 8, 2017 meeting of the Ohio Constitutional Modernization Commission were approved at the \_\_\_\_\_ meeting of the Commission.

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Co-chair  
Senator Charleta B. Tavares  
Assistant Minority Leader

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Co-chair  
Representative Jonathan Dever