



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION
LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

THURSDAY, MARCH 12, 2015
11:00 A.M.
OHIO STATEHOUSE ROOM 018

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
 - Meeting of February 12, 2015
- IV. Reports and Recommendations
 - Article II, Section 2 (Election and Term of State Legislators)
 - Option One
 - First Presentation
 - Public Comment
 - Article II, Section 2 (Election and Term of State Legislators)
 - Option Two
 - First Presentation
 - Public Comment
- V. Committee Discussion
 - SJR 1 – Public Office Compensation Commission
- VI. Adjourn

*Constitutional Modernization Commission
Legislative Branch and Executive Branch Committee
Testimony of Rob Walgate
March 12, 2015*

Chairman Mills, Vice Chair Brooks, and members of the committee, thank you for the opportunity to testify this morning. I will start my remarks by taking a brief look at how the term limits language in the Ohio Constitution originated.

At the time this language was drafted, the committee had multiple options. Public opinion clearly favored a total of six years in office, as did a majority of the widely diverse coalition of supporting organizations. After lengthy debate, the committee agreed to eight years to maintain balance between the legislative and executive branch. It did not seem to be a proper balance of powers between the branches to permit House and Senate members to serve longer in office than the Ohio governor or members of the executive branch.

A second concession was made in favor of the legislature. Public opinion wanted immediate implementation of term limits. The committee chose to grandfather the existing legislature so that no years (zero) previously served would be held against existing lawmakers. Everyone had a clean, clear start.

A third concession was made in favor of the legislature. Public opinion and the original consensus of the committee was to **not** permit lawmakers to move from one body of the legislature to the next and by so doing serve more than a total of eight years in the legislature. Language was drafted with this "eight years and out" provision. Across the country other states were doing the same. The Ohio committee avoided that language, which allowed elected officials to **double** the eight-year term in office, provided they moved to the other chamber of the General Assembly. In addition, the Ohio committee left such movement open-ended so that a lawmaker could repeat that process indefinitely if the voters so chose.

A fourth concession was made to favor the legislature in that a member being appointed to serve a partial term would not have that partial term credited against the eight year limit. This was done to prevent penalizing anyone willing to step into office on behalf of someone who could not complete the term.

It is important to acknowledge the careful balance of the existing language. Several of these provisions have made Ohio term limits laws most effective and permitted a good number of lawmakers the opportunity to serve for a lifetime in the legislature. This completely debunks the myth that seniority and institutional knowledge have disappeared from the Ohio Legislature. Regardless of these facts, opponents of term limits continue to spin the myth.

Finally, a sad reality of the existing proposals by the Commission is that they have been generated by the legislature and people who make a living working near the legislative process. It is the career politicians and their lobbying allies alone who are advocating for these changes, which uniquely serve them. The people of Ohio are not asking for these changes. No petitions have been drawn. No signatures gathered. This is exclusively born out of self-interest on the part of politicians who simply want longer terms for their own reasons. Even though it is possible to serve a lifetime in the Ohio Legislature, this is not enough. The political class asks for more. They ask for an easier path to perpetual office holding and all the attending benefits.

This amendment would be placed on the ballot at taxpayer expense, absent the request of the taxpayers. It is forwarded in an off-election year where turnout will be less than a third of what it will be in 2016. This is all designed for special interests to railroad this measure through the ballot process with hardly anyone knowing it even exists. Ohio citizens that sacrificed their time, energy and effort to amend the Ohio Constitution in 1992 deserve better.

Thank you for your time and I would be happy to answer any questions you may have.

Sincerely,

Rob Walgate
Vice President
American Policy Roundtable



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

REPORT AND RECOMMENDATION OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

OHIO CONSTITUTION ARTICLE II, SECTION 2

ELECTION AND TERM OF STATE LEGISLATORS [OPTION ONE]

The Legislative Branch and Executive Branch Committee of the Ohio Constitutional Modernization Commission issues this report and recommendation regarding Article II, Section 2 of the Ohio Constitution concerning the election and term of state legislators. It is issued pursuant to Rule 8.2 of the Ohio Constitutional Modernization Commission's Rules of Procedure and Conduct.

Recommendation

The committee recommends that Article II, Section 2 be amended to add one term to the current limit imposed on state senators, and two terms to the current limit imposed on state representatives. The committee further recommends that Article II, Section 2 be amended to allow legislators holding office at the time of the effective date of the amendment to continue to serve up to a total of 12 consecutive years.

Background

Article II, Section 2, reads as follows:

Representatives shall be elected biennially by the electors of the respective house of representatives districts; their term of office shall commence on the first day of January next thereafter and continue two years.

Senators shall be elected by the electors of the respective senate districts; their terms of office shall commence on the first day of January next after their election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January, 1971 shall be four years. Thereafter, except for the filling of vacancies for

unexpired terms, senators shall be elected to and hold office for terms of four years.

No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.

In determining the eligibility of an individual to hold office in accordance [with] to this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, [in] which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

Article II concerns the Legislative Branch, providing the organizational structure and membership requirements of the General Assembly, the governor's veto power, and the procedures for initiative and referendum.

Amendments, Proposed Amendments, and Other Review

The 1802 Constitution provided for terms of only one year for representatives and two years for senators.¹ The 1851 Constitution increased the terms to two years for each. Term lengths of two years for senators remained in place until 1956, when voters approved, by a vote of 57.4 percent to 42.6 percent, an amendment that increased the term of office to four years.² Another amendment in 1967 staggered senate terms, requiring only half of the senate to stand for election at a time.³

In the early 1990s, some 21 states enacted state legislative term limits, responding to public opinion that "career politicians" were to blame for perceived governmental deficiencies.⁴ In line with that trend, Ohio voters adopted an amendment limiting all state legislators to eight consecutive years of service, with the result that senators may only serve two successive terms of four years, and representatives may only serve four successive terms of two years.⁵ Placed on the ballot by initiative petition as Issue 3, the measure was approved on November 3, 1992 by a margin of 2,982,285 to 1,378,009, or 68.4 percent to 31.6 percent.⁶

In the 1970s, the Ohio Constitutional Revision Commission did not review this provision.

Litigation Involving the Provision

Article II, Section 2 has not been the subject of litigation; however, similar state constitutional provisions by which Ohio and other states imposed term limits upon federal congressional offices were rejected in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) (“Allowing individual States to adopt their own qualifications for congressional service would be inconsistent with the Framers' vision of a uniform National Legislature representing the people of the United States.”).

Presentations and Resources Considered

The committee received two presentations from John C. Green, Ph.D., Director of the Bliss Institute of Applied Politics at the University of Akron, and one presentation from Ann Henkener, First Vice President of the League of Women Voters of Ohio on this issue.

First Green Presentation

John C. Green first presented to the committee on April 10, 2014. According to Dr. Green, Ohio’s model, called the “common model,” imposes eight-year consecutive limits in each chamber, while other models include six- or eight-year consecutive limits for the house and senate respectively, twelve-year lifetime limitations in both chambers combined, and twelve-year consecutive limits in each chamber. Dr. Green indicated that, between 1997 and 2012, six states repealed or struck down term limits, while one state enacted term limits. Thus, in 2014, 15 states had legislative term limits.

Describing the impact of legislative term limits, Dr. Green stated that term limits have impeded the development of legislative leaders, reducing leaders’ agenda-setting and coalition-building capabilities. He further indicated that the limits reduce the influence of the legislative branch in state government, instead empowering the executive branch, administrative agencies, nonpartisan staff, and lobbyists. Dr. Green also indicated that term limits increase partisanship and reduce the time legislators have to accomplish legislative goals. He noted that term limits have failed to achieve the goal of increasing the number of “citizen legislators,” as opposed to career legislators. Dr. Green observed that term limits have not increased gender, racial, or ethnic diversity in state legislatures.

Dr. Green stated that term limits have had only a modest impact on the electoral process, with no increase in the overall competitiveness of elections, no decrease in campaign spending, and an increase in the role of party caucuses in legislative campaigns. Dr. Green opined that, despite these drawbacks, term limits will continue to have strong public support. However, he stated that increasing the limits from 8 years to 12 years may alleviate the problem of a diminished role for legislative leadership. He also indicated that allowing former legislators to return to office mitigates some of the impact of term limits.

Second Green Presentation

In his second presentation to the committee, on June 12, 2014, Dr. Green presented polling data related to term limits. Conducted by the Center for Marketing and Opinion Research for the Bliss Institute in April 2014, the “2014 Akron Buckeye Poll” surveyed a random sample of 1,078 registered Ohio voters, including both landline and cell phone users. Participants were asked whether they thought term limits produced poor government or good government and whether the limits have helped or hurt the state. The resulting data, with a margin of error of plus or minus three percentage points, indicates that 57 percent of those polled indicated they thought that term limits have helped the state, with 30 percent stating that the limits hurt the state and 13 percent having no opinion. These figures may be compared with 2005 polling data indicating that 59 percent of voters believed that term limits help the state, with 30 percent saying the limits hurt the state and 11 percent indicating they had no opinion.

Asked whether term limits should be kept at eight years, extended to 12 years, or repealed altogether, 70 percent of those polled favored keeping term limits at eight years, with 13 percent willing to extend the limits to 12 years, 12 percent agreeing that they should be repealed altogether, and five percent having no opinion. Queried as to whether they could accept an increase in the limit to 12 years, 38 percent of participants answered that they were firm on keeping the total number of years served at eight, with 32 percent willing to accept a 12-year limit, 13 percent being firm on a 12-year limit, 12 percent supporting a complete repeal of term limits, and five percent having no opinion.

Asked whether they would support increasing state legislative terms by two years, meaning that representatives would serve a four-year term and senators a six-year term, 61 percent of participants indicated they would support such a measure, with 36 percent indicating they would not and three percent having no opinion.

Sixty-two percent of participants stated that it should take a legislator less than five years to learn the job, while 28 percent said five-to-ten years was appropriate, seven percent identifying more than 10 years as the correct time span, and three percent having no opinion.

Henkener Presentation

Ann Henkener, First Vice President of the League of Women Voters of Ohio (“League”), presented to the committee on July 10, 2014. According to Ms. Henkener, the League’s long opposition to term limits is based upon the rationale that terms are inherently limited to two years for representatives and four years for senators, requiring legislators to seek re-election at the end of those terms. Ms. Henkener asserted that the arguments against term limits as presented by the League to voters in 1992, when the current version of Article II, Section 2 appeared on the ballot, have proved mostly true. As she described them, those arguments are that term limits create more “lame duck” legislators, reduce competition for legislative seats, result in less-experienced legislators, reduce institutional memory, impede long-term thinking about societal problems, and increase the power of staff, bureaucrats, and lobbyists. Ms. Henkener opined that voters

continue to support the concept of term limits because they are perceived as a counterbalance to problems attributed to the redistricting process. She stated that if redistricting reform occurs, allowing for more competitive districts, then voters might look more favorably on extending term limits.

Conclusion

The Legislative Branch and Executive Branch Committee concludes that Article II, Section 2 should be amended to expand term limits for state senators by one term, and for state representatives by two terms. The committee also concludes that these extensions should apply to legislators who are in office at the time of the effective date of an amendment, with the result that senators serving their first term would be eligible to hold office for two more four-year terms, while senators in their second term would be eligible for one additional four-year term. Likewise, representatives in their first term may hold office for five more two-year terms, those in their second term would be permitted four more two-year terms, and so on. The modified provision additionally would allow newly-elected legislators to be eligible to serve twelve consecutive years in their respective houses.

The committee also recommends that Article II, Section 2 be reorganized to first describe the length of term and term limits for state senators, followed by a description of the length of term and term limits for state representatives. This reorganization does not substantially change the meaning of the provision but is intended to assist the reader's comprehension of the meaning of the section. These proposed changes bring the format of the section in line with the structure of other sections in Article II.

Thus, the committee recommends Section 2 be amended as shown in Attachment A, which provides a marked-up version of the provision. Attachment B provides a clean version of Section 2, if the proposed amendment is adopted.

Date Adopted

After formal consideration by the Legislative Branch and Executive Branch Committee on _____ and _____, the committee voted to adopt this report and recommendation on _____.

Endnotes

¹ Steven H. Steinglass & Gino J. Scarselli, *The Ohio State Constitution* (2nd prtg. 2011), p. 140.

² Michael F. Curtin, *Ohio Politics Almanac* (Kent: Kent State UP, 2d Ed., 2006), p. 83.

³ Steinglass & Scarselli, *supra*.

⁴ Huefner, *supra*, p. 428.

⁵ Steinglass & Scarselli, *supra*, p. 141.

⁶ *Id.*, Appendix B.

Option One - Attachment A

Article II, Section 2

~~Representatives shall be elected biennially by the electors of the respective House of Representative districts; their term of office shall commence on the first day of January next thereafter and continue two years.~~

Senators shall be elected by the electors of the respective Senate districts; ~~their~~ The terms term of office of a senator shall commence on the first day of January ~~next after their~~ following the election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January, 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representative districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

~~No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.~~

In determining the eligibility of an individual to hold office in accordance ~~to~~ with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

Option One - Attachment B*Article II, Section 2*

Senators shall be elected by the electors of the respective Senate districts. The term of office of a senator shall commence on the first day of January following the election. All terms of senators which commence on the first day of January 1969 shall be four years, and all terms which commence on the first day of January 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representatives districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

REPORT AND RECOMMENDATION OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

OHIO CONSTITUTION ARTICLE II, SECTION 2

ELECTION AND TERM OF STATE LEGISLATORS [OPTION TWO]

The Legislative Branch and Executive Branch Committee of the Ohio Constitutional Modernization Commission issues this report and recommendation regarding Article II, Section 2 of the Ohio Constitution concerning the election and term of state legislators. It is issued pursuant to Rule 8.2 of the Ohio Constitutional Modernization Commission's Rules of Procedure and Conduct.

Recommendation

The committee recommends that Article II, Section 2 be amended to allow all newly-elected state legislators to serve a total of twelve consecutive years, consisting of three four-year terms for senators and six two-year terms for representatives. The committee also recommends that this expansion of the current eight-year limit on consecutive terms of legislative service not apply to current members of the General Assembly, with the result that all members already in office at the time of the effective date of the amendment would be limited to eight years consecutive service.

Background

Article II, Section 2, reads as follows:

Representatives shall be elected biennially by the electors of the respective house of representatives districts; their term of office shall commence on the first day of January next thereafter and continue two years.

Senators shall be elected by the electors of the respective senate districts; their terms of office shall commence on the first day of January next after their election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January,

1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years.

No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.

In determining the eligibility of an individual to hold office in accordance [with] to this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, [in] which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

Article II concerns the Legislative Branch, providing the organizational structure and membership requirements of the General Assembly, the governor's veto power, and the procedures for initiative and referendum.

Amendments, Proposed Amendments, and Other Review

The 1802 Constitution provided for terms of only one year for representatives and two years for senators.¹ The 1851 Constitution increased the terms to two years for each. Term lengths of two years for senators remained in place until 1956, when voters approved, by a vote of 57.4 percent to 42.6 percent, an amendment that increased the term of office to four years.² Another amendment in 1967 staggered senate terms, requiring only half of the senate to stand for election at a time.³

In the early 1990s, some 21 states enacted state legislative term limits, responding to public opinion that "career politicians" were to blame for perceived governmental deficiencies.⁴ In line with that trend, Ohio voters adopted an amendment limiting all state legislators to eight consecutive years of service, with the result that senators may only serve two successive terms of four years, and representatives may only serve four successive terms of two years.⁵ Placed on the ballot by initiative petition as Issue 3, the measure was approved on November 3, 1992 by a margin of 2,982,285 to 1,378,009, or 68.4 percent to 31.6 percent.⁶

In the 1970s, the Ohio Constitutional Revision Commission did not review this provision.

Litigation Involving the Provision

Article II, Section 2 has not been the subject of litigation; however, similar state constitutional provisions by which Ohio and other states imposed term limits upon federal congressional offices were rejected in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) (“Allowing individual States to adopt their own qualifications for congressional service would be inconsistent with the Framers' vision of a uniform National Legislature representing the people of the United States.”).

Presentations and Resources Considered

The committee received two presentations from John C. Green, Ph.D., Director of the Bliss Institute of Applied Politics at the University of Akron, and one presentation from Ann Henkener, First Vice President of the League of Women Voters of Ohio on this issue.

First Green Presentation

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Describing the impact of legislative term limits, Dr. Green stated that term limits have impeded the development of legislative leaders, reducing leaders’ agenda-setting and coalition-building capabilities. He further indicated that the limits reduce the influence of the legislative branch in state government, instead empowering the executive branch, administrative agencies, nonpartisan staff, and lobbyists. Dr. Green also indicated that term limits increase partisanship and reduce the time legislators have to accomplish legislative goals. He noted that term limits have failed to achieve the goal of increasing the number of “citizen legislators,” as opposed to career legislators. Dr. Green observed that term limits have not increased gender, racial, or ethnic diversity in state legislatures.

Dr. Green stated that term limits have had only a modest impact on the electoral process, with no increase in the overall competitiveness of elections, no decrease in campaign spending, and an increase in the role of party caucuses in legislative campaigns. Dr. Green opined that, despite these drawbacks, term limits will continue to have strong public support. However, he stated that increasing the limits from 8 years to 12 years may alleviate the problem of a diminished role for legislative leadership. He also indicated that allowing former legislators to return to office mitigates some of the impact of term limits.

Second Green Presentation

In his second presentation to the committee, on June 12, 2014, Dr. Green presented polling data related to term limits. Conducted by the Center for Marketing and Opinion Research for the Bliss Institute in April 2014, the “2014 Akron Buckeye Poll” surveyed a random sample of 1,078 registered Ohio voters, including both landline and cell phone users.⁷ Participants were asked whether they thought term limits produced poor government or good government and whether the limits have helped or hurt the state. The resulting data, with a margin of error of plus or minus three percentage points, indicates that 57 percent of those polled indicated they thought that term limits have helped the state, with 30 percent stating that the limits hurt the state and 13 percent having no opinion. These figures may be compared with 2005 polling data indicating that 59 percent of voters believed that term limits help the state, with 30 percent saying the limits hurt the state and 11 percent indicating they had no opinion.

Asked whether term limits should be kept at eight years, extended to 12 years, or repealed altogether, 70 percent of those polled favored keeping term limits at eight years, with 13 percent willing to extend the limits to 12 years, 12 percent agreeing that they should be repealed altogether, and five percent having no opinion. Queried as to whether they could accept an increase in the limit to 12 years, 38 percent of participants answered that they were firm on keeping the total number of years served at eight, with 32 percent willing to accept a 12-year limit, 13 percent being firm on a 12-year limit, 12 percent supporting a complete repeal of term limits, and five percent having no opinion.

Asked whether they would support increasing state legislative terms by two years, meaning that representatives would serve a four-year term and senators a six-year term, 61 percent of participants indicated they would support such a measure, with 36 percent indicating they would not and three percent having no opinion.

Sixty-two percent of participants stated that it should take a legislator less than five years to learn the job, while 28 percent said five-to-ten years was appropriate, seven percent identifying more than 10 years as the correct time span, and three percent having no opinion.

Henkener Presentation

Ann Henkener, First Vice President of the League of Women Voters of Ohio (“League”), presented to the committee on July 10, 2014. According to Ms. Henkener, the League’s long opposition to term limits is based upon the rationale that terms are inherently limited to two years for representatives and four years for senators, requiring legislators to seek re-election at the end of those terms. Ms. Henkener asserted that the arguments against term limits as presented by the League to voters in 1992, when the current version of Article II, Section 2 appeared on the ballot, have proved mostly true. As she described them, those arguments are that term limits create more “lame duck” legislators, reduce competition for legislative seats, result in less-experienced legislators, reduce institutional memory, impede long-term thinking about societal problems, and increase the power of staff, bureaucrats, and lobbyists. Ms. Henkener opined that voters

continue to support the concept of term limits because they are perceived as a counterbalance to problems attributed to the redistricting process. She stated that if redistricting reform occurs, allowing for more competitive districts, then voters might look more favorably on extending term limits.

Conclusion

The Legislative Branch and Executive Branch Committee concludes that Article II, Section 2 should be amended to expand term limits for newly-elected state senators by one term, and for state representatives by two terms. The committee does not recommend extending term limits for current members of the General Assembly, who would be limited to eight consecutive years of service in their respective houses.

The committee also recommends that Article II, Section 2 be reorganized to first describe the length of term and term limits for state senators, followed by a description of the length of term and term limits for state representatives. This reorganization is intended to assist the reader's comprehension of the meaning of the section. The committee further recommends that the provision be reorganized to include a supplemental paragraph entitled "Effective Date and Repeal," consisting of a description of when the provision, if adopted, would take effect. The committee also recommends the inclusion of "Schedule 1," consisting of an explanation that the extended term limits contained in the revised provision will only apply to newly appointed or elected legislators. These proposed changes bring the format of the section in line with the structure of other sections in Article II.

Therefore, the committee recommends Section 2 be amended as shown in Attachment A, which provides a marked-up version of the provision. Attachment B provides a clean version of Section 2, if the proposed amendment is adopted.

Date Adopted

After formal consideration by the Legislative Branch and Executive Branch Committee on _____ and _____, the committee voted to adopt this report and recommendation on _____.

Endnotes

¹ Steven H. Steinglass & Gino J. Scarselli, *The Ohio State Constitution* (2nd prtg. 2011), p. 140.

² Michael F. Curtin, *Ohio Politics Almanac* (Kent: Kent State UP, 2d Ed., 2006), p. 83.

³ Steinglass & Scarselli, *supra*.

⁴ Huefner, *supra*, p. 428.

⁵ Steinglass & Scarselli, *supra*, p. 141.

⁶ *Id.*, Appendix B.

⁷ A May 28, 2014, Cleveland *Plain Dealer* article describing Dr. Green's poll results is attached for the committee's convenience.

Option Two - Attachment A

Article II, Section 2

~~Representatives shall be elected biennially by the electors of the respective House of Representatives districts; their term of office shall commence on the first day of January next thereafter and continue two years.~~

Senators shall be elected by the electors of the respective Senate districts; ~~their~~. The term term of office of a senator shall commence on the first day of January ~~next after their~~ following the election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January, 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representative districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

~~No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.~~

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

Option Two - Attachment B

Article II, Section 2

Senators shall be elected by the electors of the respective Senate districts. The term of office of a senator shall commence on the first day of January following the election. All terms of senators which commence on the first day of January 1969 shall be four years, and all terms which commence on the first day of January 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representatives districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, Section 2 of Article II as amended by this proposal shall take effect on January 1, 2016, and existing Section 2 of Article II shall be repealed effective January 1, 2016.

SCHEDULE 1

The version of Section 2 of Article II in effect on December 31, 2015 shall apply to senators and representatives who are in office on that date.

The version of Section 2 of Article II as amended by this proposal shall first apply to senators and representatives who are appointed or elected after the effective date of this amendment and who are not in office on December 31, 2015.



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MEMORANDUM

TO: Chairman Frederick E. Mills and
Members of the Legislative Branch and Executive Branch Committee

CC: Steven C. Hollon, Executive Director and
Shari L. O'Neill, Counsel to the Commission

FROM: Hailey C. Akah, Legal Intern

DATE: March 2, 2015

RE: Comparing State Compensation Commissions

At the request of the Legislative Branch and Executive Branch Committee, this Memorandum compares state compensation commissions for elected officials. First, it outlines the basic tenets of Senate Joint Resolution 1 (“SJR 1”), which would establish the Public Office Compensation Commission for Ohio. The memo then outlines the similarities often seen among state compensation commissions and, the key differences between states as they set compensation policy, and identifies how the proposed Ohio Compensation Commission compares to other state compensation commissions.¹

Summary of Senate Joint Resolution 1

SJR 1 would create the Public Office Compensation Commission (“Compensation Commission”). Proposed SJR 1 would create the Compensation Commission to set the compensation of elected officials in the state of Ohio. The Compensation Commission would consist of nine voting members who are to be appointed in the following manner: two appointed by the Governor, two appointed by the President of the Senate, two appointed by the Speaker of the House, one appointed by the minority leader of the Senate, one appointed by the minority leader of the House of Representatives, and one appointed by the Chief Justice of the Supreme Court. Members are appointed to terms of two years and may not serve more than four consecutive terms.

Membership on the Compensation Commission would be restricted. Officers and employees of the state, family members of officers and employees of the state, individuals who were candidates for election in the last 12 months, and lobbyists cannot be appointed to the Compensation Commission. The members of the Compensation Commission may not be paid for their work, but would be reimbursed for any Compensation Commission-related spending.

The Compensation Commission would meet in even-numbered years to consider factors relevant to the compensation of elected officials and to create a compensation plan proposal. Relevant factors include: (1) the salaries of similarly-skilled individuals in the private sector; (2) the salaries of individuals in similar public offices in other states; and (3) the current financial condition of and within Ohio. However, the Compensation Commission would not address the compensation of county officers elected under county charter, nor of officers of municipal corporations elected under the power of local self-government.

Once the Compensation Commission has prepared a proposed compensation plan, it must present that plan during at least three public hearings in Ohio. If the pay increase or decrease is either: (1) more than 3 percent; or (2) more than the percentage increase of the consumer price index, the Compensation Commission must include specific factors that support its decision.

Finally, the Compensation Commission, by a majority vote, would issue a final compensation plan no later than December 31 of that even-numbered year. This plan would be effective on July 1 of the following year unless the General Assembly overrides it by concurrent resolution. The General Assembly may reject one or more of the compensation amounts.

Reasons to Establish a Compensation Commission

Based on a survey of commentary by legislators in states with compensation commissions, compensation commissions are created for several reasons. First, it is politically unpopular for legislatures to raise their own wages. However, under most state constitutions, it is the responsibility of the legislature to set the compensation rates for public officials. Because it is a political challenge, most legislatures do not raise wages often. This leads to low compensation that, in many instances, does not continue to rise with inflation. Second, because compensation is low, public officials worry about lack of diversity in public offices. It may be the case that only the wealthy and retired, for example, are able to accept a legislator's salary.

Similarities among State Compensation Commissions

The compensation commissions of the following 16 states were surveyed²: Arizona, Arkansas, California, Connecticut, Delaware, Hawaii, Idaho, Indiana, Maryland, Michigan, Minnesota, Missouri, Oregon, Utah, Washington, and West Virginia.³ Among these states, there were notable similarities. For a side-by-side comparison, please see a comparison chart provided at Attachment A.

First, membership on compensation commissions is often approached in a similar way. Members are appointed, can be reappointed for a number of terms, and can be removed for cause. Additionally, members of compensation commissions typically cannot be elected officials and cannot be paid for their service. The notable exception is the Arkansas Independent Citizens Commission, which may elect to pay its members a stipend of \$85 a day or less. Thus far, it has not elected to do so, but it has only been in existence since November 2014.

Second, the system for recommending compensation rates is similar among the states. In most cases, pay rates are proposed at the end of the calendar year and go into effect at the beginning of the next fiscal year. This recommendation system, and the common aspects of membership, are also true of the proposed Compensation Commission.

Finally, the process of appointment is similar among a majority of the states. In most cases, states allow officials from each branch of government to appoint members to the compensation commission. Many states also have some bipartisanship requirement, whether in the members of the compensation commission or in the makeup of the appointers. The proposed Compensation Commission follows this pattern. However, there are two notable exceptions to this general rule. First, the compensation commissions in California and Michigan are entirely appointed by the governors of those states. Second, both Missouri and Oregon appoint citizen members to their compensation commissions. The Secretary of State in each of these states is charged with appointing one member from each congressional district. These members are chosen by lot from the state voter registration records. However, states that utilize citizen members are recent exceptions to the general rule.

Differences between State Compensation Commissions

The Legislature's Role in Setting Compensation

The policy choice most closely related to the goals of compensation commissions generally concerns the role of the legislature in setting compensation rates. One group of states vests the authority to set the salaries of public officials in the compensation commission entirely. This group includes Delaware, California, Maryland, Missouri, Utah, and Washington. In these states, the recommendations of the compensation commission go into effect without any action by the state legislature. In these instances, the legislature can disapprove the recommendations by joint resolution or the citizens can change the recommendations by referendum petition. The proposed Compensation Commission falls into this group.

This relationship between the legislature and the compensation commission resolves many of the problems that plague legislatures when they are required to pass their own salary increases. The press coverage of salary increases tends not to focus on political issues, but is neutral and factual, when the increases are implemented by an external compensation commission. A newspaper in Utah called a 2015 pay increase for its governor “long overdue.”⁴ Maryland pay increases received similar positive press in 2013.⁵ In fact, in most instances, there is little press at all. The only extensive political press coverage of a state in this group occurred in Missouri when the Missouri General Assembly disapproved a pay increase by joint resolution.⁶

The other group of states, including Arizona, Connecticut, Michigan, and Minnesota, require the legislature to pass the compensation plan recommended by the compensation commission. The compensation plan in these instances has no authority until it is voted into law by the legislature.

These states experience fewer of the benefits associated with compensation commissions. Pay raises for public offices are still politically difficult and, therefore, happen rarely.⁷

Legal Authority: Constitution or Legislation

One key difference among the surveyed states is whether the compensation commission is established under the state constitution or by statute. Some states, including Arkansas, California, Washington, and West Virginia, have established their compensation commissions by constitutional provision alone. Arkansas is the newest member of this group, establishing its compensation commission in November 2014. It appears that the Compensation Commission would be in this group as well.

Other states have created their compensation commissions through legislation alone. These states include Connecticut, Delaware, Oregon, and Utah. Statutes, in comparison to constitutional provisions, tend to be longer and more detailed. While constitutional provisions use broader terms that leave more room for interpretation, statutes often include specific lists and exact definitions. One prominent example of this distinction occurs when defining the jurisdiction of the compensation commission, discussed further in the section below.

Still other states have created compensation commissions using a combination of a broad constitutional provision and enabling legislation. These states, including Hawaii, Idaho, and Michigan, have passed short, less-descriptive constitutional provisions. These provisions also contain language that calls on the legislature to pass additional legislation. For instance, Article IV, Section 12 of the Michigan Constitution states that the governor shall appoint seven members to the compensation commission and their qualifications “may be determined by law.” The legislature is then required to act. These statutes expound on the constitutional provision in definition and detail.

The Compensation Commission’s Jurisdiction: Specific or General

Another key difference between states is the specificity with which the source document explains the jurisdiction of the compensation commission. One group of states list specific offices over which their compensation commissions have jurisdiction. Connecticut, Delaware, Hawaii, Oregon, Utah, and West Virginia are members of this group. These states fall into two subcategories. States in the first subcategory have established their compensation commissions legislatively. Statutes typically include more detailed information than constitutional provisions. Therefore, these statutes are explicit about which offices the compensation commission may include in its recommendation. In the second subcategory, states have limited the scope of the compensation commission, and therefore, the jurisdiction is clear and specific. For instance, West Virginia has enacted the West Virginia’s Citizens Legislative Compensation Commission, and the scope is limited to members of the Legislature. This is another way to establish a compensation commission with a specific jurisdiction.

Other states set out the jurisdiction of their compensation commissions using general phrases. These states include Arkansas, Michigan, Missouri, and Washington. General phrases are typically utilized in constitutional provisions. A common example was enacted in Washington. The Washington Citizens' Commission on Salaries for Elected Officials has jurisdiction over the "[s]alaries for the members of the legislature, elected officials of the executive branch of state government, and judges of the state's supreme court, court of appeals, superior courts, and district courts." These categories are not further expounded upon. However, in Michigan, the State Constitution does list a few specific offices, including the Governor, Lieutenant Governor, Attorney General, and Secretary of State. It may be inferred, however, that these offices are necessarily included in the phrase "elected officials of the executive branch," which other states in this group utilize. Although these offices are listed by name, they add little additional clarity to the jurisdiction of the compensation commission. If enacted in its current form, SJR 1 would establish this type of compensation commission, defining its jurisdiction using general phrases.

A third type of jurisdictional phrase exists in only one state surveyed: California. The source document for the California Citizen's Compensation Commission, Article III, Section 8 of the California Constitution, uses the phrase "state officer" throughout. This phrase is then defined in the text of the Constitution itself. The section defines "state officer" as "the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, member of the State Board of Equalization, and Member of the Legislature." This approach to establishing jurisdiction is more similar in effect to the first group of states, which list specific offices in its source statute. However, California includes such a list in its Constitution.

Conclusion

Thank you for the opportunity to provide an overview of the different types of compensation commissions that exist throughout the United States. If the committee has any additional questions concerning compensation commissions, I am happy to follow up with additional research.

Endnotes

¹ Citations to the constitutional provisions and statutes that contain information on the compensation commissions for each state can be found in the chart provided as Attachment A.

² According to Senate Chief Legal Counsel Frank Strigari's testimony during the February Meeting of the Legislative Branch and Executive Branch Committee, there are 19 states with compensation commissions. In the interest of time, this review addresses most, but not all of these states.

³ Indiana has had a compensation commission in the past, but it has since been repealed. The Indiana General Assembly established the Public Officers Compensation Advisory Commission in 2004 by statute. Ind. Code § 2-5-1.5. That compensation commission was then repealed in 2011 as part of an omnibus bill that eliminated dozens of councils, commissions, and boards. Between its creation in 2004 and its termination in 2011, the compensation commission did not meet. In 2012, Indiana HB 1002 passed through the General Assembly and was signed into law.

It was another omnibus bill that eliminated dozens of additional councils, commissions, and boards, but in fact reinstated the Compensation Advisory Commission. Ind. Code § 2-5-1.6. However, the compensation commission was repealed again on March 24, 2013. The Indiana General Assembly now passes legislation to set compensation for elected officials.

The reasons for this tumultuous history are uncertain. No case law exists on the matter and little press was generated by the repeals and reinstatement. However, if this Committee finds it beneficial to understand the challenges faced in Indiana, more comprehensive research can be done.

⁴ Brad Wilson, *Pay Raise for Governor Long Overdue*, STANDARD EXAMINER, February 23, 2015.

⁵ Len Lazarick, *Next Governor Should Get 20% Pay Raise to \$180,000, Commission Recommends*, MARYLAND REPORTER, December 22, 2013.

⁶ Although Democrats in the legislature approved the pay increase, Republicans were concerned about the widening pay gap between legislators and legislative staff. Alex Stuckey, *Missouri Lawmakers Reject Pay Raise*, ST. LOUIS POST-DISPATCH, January 30, 2015.

⁷ For example, the current Connecticut General Assembly is taking steps to raise compensation by 10 percent for all elected officers statewide. Democrats wanted to implement the raises, but Republicans were against it. Senator Rob Kane, a Republican, felt that raising compensation showed concern for the General Assembly itself rather than for its constituents. This is a political issue that was not circumvented by the creation of a compensation commission.

Arizona faced a similar problem in 2014. Article V, Section 12 of the Arizona Constitution establishes a compensation commission that advises the governor, who reports recommendations to the legislature. The governor's recommendations become law without action by the legislature. However, the recommendations are submitted to the voters for approval at the next regular general election. Typically, pay increases are rejected by the voters. This relationship between compensation commission, governor, legislature, and electorate has retained the politicization of compensation for elected officials. It has also left Arizona legislators in a difficult financial position. An increase in legislature salaries from \$24,000 a year to \$35,000 a year was put on the ballot in November 2014, and it was disapproved by the voters.

Attachment A

Compensation Commission State Comparison Chart				
State:	Appointments Made By:	Source Document:	Jurisdiction:	Power to Enact:
<p>Arizona</p> <p>Commission on Salaries for Elective State Officers</p>	<p>Three Branches</p> <p>5 members:</p> <ul style="list-style-type: none"> • Governor (2) • Speaker of the House (1) • President of the Senate (1) • Chief Justice (1) 	<p>Constitution</p> <p>Ariz. Const. art. V, § 12</p>	<p>Vague</p> <p>“Those holding elective state offices”</p> <p>Ariz. Const. art. V, § 12</p>	<p>Voters</p> <p>The recommendations go before the voters for a vote.</p>
<p>Arkansas</p> <p>Independent Citizens Commission</p>	<p>Three Branches</p> <p>7 members:</p> <ul style="list-style-type: none"> • Governor (2) • Speaker of the House (2) • President of the Senate (2) • Chief Justice (1) 	<p>Constitution</p> <p>Ark. Const. art. XIX, § 31</p>	<p>Specific List</p> <p>Ark. Const. art. XIX, § 31(d)</p>	<p>Compensation Commission</p> <p>Ark. Const. art. XIX, § 31(j)</p>
<p>California</p> <p>California Citizen’s Compensation Commission</p>	<p>Governor Only</p> <p>7 members:</p> <ul style="list-style-type: none"> • Governor (7) 	<p>Constitution</p> <p>Cal. Const. art. III, § 8</p>	<p>Broad Term Defined</p> <p>"State officer" defined in Cal. Const. art. III, § 8(1)</p>	<p>Compensation Commission</p> <p>Cal. Const. art. III, § 8(g)</p>

<p>Connecticut</p> <p>Compensation Commission for Elected State Officers and Judges</p>	<p>Two Branches</p> <p>11 members:</p> <ul style="list-style-type: none"> • Governor (3) • Speaker of the House (2) • President of the Senate (2) • Minority Leader of the House (2) • Minority Leader of the Senate (2) 	<p>Statute</p> <p>Conn. Gen. Stat. § 2-9a</p>	<p>Specific List</p> <p>Conn. Gen. Stat. § 2-9a(2)(b)</p>	<p>The Legislature</p> <p>The recommended compensation plan will not go into effect without a vote from the General Assembly.</p>
<p>Delaware</p> <p>Delaware Compensation Commission</p>	<p>Two Branches + Private Sector</p> <p>5 voting members:</p> <ul style="list-style-type: none"> • Governor (2) • Speaker of the House (1) • President of the Senate (1) • President of the Delaware Business Roundtable (1) 	<p>Statute</p> <p>Del. Code tit. 29, § 3301 - 3304</p>	<p>Specific List</p> <p>Del. Code tit. 29, § 3303</p>	<p>Compensation Commission</p> <p>Recommendations take effect unless the General Assembly passes a joint resolution to reject it at least 30 days before the end of its session.</p>
<p>Hawaii</p> <p>Commission on Salaries</p>	<p>Three Branches</p> <p>7 voting members:</p> <ul style="list-style-type: none"> • Governor (2) • Speaker of the House (2) • President of the Senate (2) • Chief Justice (1) 	<p>Constitution</p> <p>Haw. Const. § art. 16, § 3.5</p>	<p>Categories</p> <p>Haw. Const. § art. 16, § 3.5</p>	<p>Compensation Commission</p> <p>Automatically becomes law unless the legislature disapproves, but new rate does not apply to the current legislature.</p>

<p>Idaho</p> <p>The Committee</p>	<p>Two Branches</p> <p>6 voting members:</p> <ul style="list-style-type: none"> • Governor (3) • Supreme Court (3) 	<p>Constitution + Statute</p> <p>Idaho Const. art. III, § 23 Idaho Code § 67-406b</p>	<p>Narrow Scope</p> <p>The Legislature Only Idaho Code § 67-406b</p>	<p>Compensation Commission</p> <p>The Committee's rates will go into effect unless the legislature rejects or reduces them by concurrent resolution.</p>
<p>Maryland</p> <p>General Assembly Compensation Commission</p>	<p>Two Branches</p> <p>9 voting members:</p> <ul style="list-style-type: none"> • Governor (5) • Speaker of the House (2) • President of the Senate (2) 	<p>Constitution</p> <p>Const. art. III, § 15</p>	<p>Narrow Scope</p> <p>The Legislature Only</p>	<p>Compensation Commission</p> <p>The resolution, with any reductions that shall have been concurred in by joint resolution of the General Assembly, shall take effect and have the force of law</p>
<p>Michigan</p> <p>State Officers Compensation Commission</p>	<p>Governor Only</p> <p>7 members:</p> <ul style="list-style-type: none"> • Governor (7) 	<p>Constitution + Statutes</p> <p>Mich. Const. § art. 4, § 12 Mich. Comp. Laws §§ 15.211 – 15.218</p>	<p>Categories</p> <p>Mich. Const. § art. 4, § 12</p>	<p>The Legislature</p> <p>These recommendations only become salaries if the legislature adopts them by concurrent resolution.</p>

<p>Minnesota</p> <p>State Compensation Council</p>	<p>Three Branches</p> <p>16 voting members:</p> <ul style="list-style-type: none"> • Governor (8) • Speaker of the House (2) • President of the Senate (2) Minority Leader of the House (1) • Minority Leader of the Senate (1) • Chief Justice (2) <p>The Governor appoints one member from each congressional district.</p>	<p>Statute</p> <p>Minn. Stat. § 15A.082</p>	<p>Categories</p> <p>Minn. Stat. § 15A.082(2)</p>	<p>Compensation Commission</p> <p>Minn. Stat. § 15A.082(3)</p>
<p>Missouri</p> <p>Missouri Citizens' Commission on Compensation for Elected Officials</p>	<p>Three Branches + Citizens Appointed by Secretary of State from Voter Roll</p> <p>21 voting members:</p> <ul style="list-style-type: none"> • Governor with advice and consent of the Senate (12) • Supreme Court (1) • Secretary of State (1 per congressional district) 	<p>Constitution</p> <p>Mo. Const. art. XIII, § 3</p>	<p>Categories</p> <p>Mo. Const. art. XIII, § 3</p>	<p>Compensation Commission</p> <p>Mo. Const. art. XIII, § 3</p>

<p>Oregon</p> <p>The Public Officials Compensation Commission</p>	<p>Three Branches + Citizens Appointed by Secretary of State from Voter Roll</p> <p>11 voting members:</p> <ul style="list-style-type: none"> • Governor (2) • Speaker of the House (1) • President of the Senate (1) • Chief Justice (1) • Secretary of State (6) 	<p>Statute</p> <p>Or. Rev. Stat. § 292.907</p>	<p>Specific List</p> <p>Or. Rev. Stat. § 292.930</p>	<p>Compensation Commission</p> <p>Or. Rev. Stat. § 292.912</p>
<p>Utah</p> <p>State Elected Official and Judicial Compensation Commission</p>	<p>Two Branches, Members, and State Bar Commission</p> <p>6 voting members:</p> <ul style="list-style-type: none"> • Governor (1) • Speaker of the House (1) • President of the Senate (1) • Members appointed by Governor, Speaker, and President (2) • State Bar Commission (1) 	<p>Statute</p> <p>Utah Code Ann. § 67-8</p> <p>Utah Elected Official and Judicial Salary Act</p>	<p>Categories</p> <p>Utah Code Ann. § 67-8-5</p>	<p>Legislature, Executive, and Judiciary</p> <p>The Commission shall “consult and advise with, and make recommendation to” each branch of government. It is unclear which branch has the final say on the recommendations.</p> <p>Utah Code Ann. § 67-8-5</p>

<p>Washington</p> <p>Washington Citizens' Commission on Salaries for Elected Officials</p>	<p>None Listed</p>	<p>Constitution</p> <p>Wash. Const. art. XXVIII, § 1</p>	<p>Broad Category</p> <p>Determines salaries for members of the legislature, elected officials of the executive branch of state government, and judges of the state's supreme court, court of appeals, superior courts, and district courts</p>	<p>Compensation Commission</p> <p>The Commission has the authority to set the salary of all public officials, and that salary can only be changed by referendum petition.</p>
<p>West Virginia</p> <p>The Citizens Legislative Compensation Commission</p>	<p>Governor Only</p> <p>7 members:</p> <ul style="list-style-type: none"> • Governor (7) 	<p>Constitution</p> <p>W. Va. Const. art. VI, § 33</p>	<p>Narrow Scope</p> <p>Legislators only</p>	<p>The Legislature</p> <p>The Legislature must enact the resolution into law and may reduce, but not increase any item established in such resolution.</p>



Ohio Legislative Service Commission

Resolution Analysis

Jennifer A. Parker

S.J.R. 1

131st General Assembly
(As Introduced)

Sens. Faber, Widener, Patton, Oelslager, Obhof, Williams, Seitz, LaRose, Bacon, Beagle, Hottinger

RESOLUTION SUMMARY

- Creates the Public Office Compensation Commission consisting of nine voting members.
- Requires the Commission, in each even-numbered year, to review the compensation of elected public offices in the state.
- Requires the Commission to create a proposed compensation plan and a report, and to present the plan and report at not less than three public hearings to receive public input.
- Requires the Commission to issue a final compensation plan and a report not later than December 31 of each even-numbered year.
- Allows the General Assembly to reject one or more of the final compensation amounts.
- Provides that the final compensation plan issued by the Commission takes effect July 1 of the following odd-numbered year except insofar as compensation amounts have been rejected by the General Assembly.
- Requires the Commission to create its *initial* final compensation plan not later than December 31, 2015, and provides that the compensation amounts therein take effect July 1, 2016, unless rejected by the General Assembly.
- Specifies that the creation and operation of the Commission does not affect the compensation of nonjudicial elected public offices in municipal corporations and charter counties having home rule.

- Removes the prohibition against General Assembly members receiving "allowances or perquisites" in addition to a fixed compensation.
- Limits the prohibition against General Assembly members receiving in-term increases in compensation to apply only when the General Assembly has, during a member's term, rejected the Commission's final compensation plan.
- Removes the prohibition against compensation of judges of courts of record being diminished during a term of office.
- Eliminates the prohibition against a member of the General Assembly, during the member's term or for one year thereafter, from being appointed to a public office the compensation of which was increased during the member's term.
- Eliminates the prohibition against executive officers' compensation being increased or decreased during the period for which the officer was elected.

CONTENT AND OPERATION

The joint resolution proposes an amendment to the Ohio Constitution that establishes a Public Office Compensation Commission to review and set the compensation of elected public offices, subject to rejection by the General Assembly. The proposal is to be submitted to the electors at the general election to be held on November 3, 2015.

Duties of the Public Office Compensation Commission

The Public Office Compensation Commission is required to meet each even-numbered year to review the current compensation of each elected public office in the state.¹ Currently, the General Assembly establishes, by law, the compensation of all officers,² of all executive officers,³ and of justices of the Supreme Court and judges of the courts of appeals, courts of common pleas, and divisions thereof, and of all courts of record established by law.⁴ Under the proposal, the Commission, instead of the General Assembly, is to establish the compensation of all elected public offices.⁵ When

¹ Ohio Const., art. II, sec. 20a(B)(1).

² Ohio Const., art. II, sec. 20.

³ Ohio Const., art. III, sec. 19.

⁴ Ohio Const., art. IV, sec. 6(B).

⁵ Ohio Const., art. II, sec. 20a(B)(1).



reviewing the current compensation of elected public offices, the Commission must consider factors provided by law, including the amount of compensation paid to similarly skilled individuals in the private sector, the amount of compensation paid to individuals in comparable elected public offices in other states, and the current financial condition of and within Ohio.⁶

After completing its review, the Commission must prepare, by vote of at least five of its members, a proposed compensation plan that sets forth the compensation amounts for each elected public office in the state, and must prepare a report of the proposed compensation plan. The Commission must present the proposed compensation plan and the report at not less than three public hearings in the state to obtain public input regarding the plan. After conducting the public hearings, the Commission must issue, by vote of at least five of its members, a final compensation plan. The Commission must prepare a report of the final compensation plan not later than the last day of December in each even-numbered year. When a proposed or final compensation plan increases or decreases the compensation amount of an elected public office by more than the lesser of 3% or the percentage increase, if any, in the consumer price index,⁷ the Commission must include specific factors that support the increase or decrease in its accompanying report.⁸

Effective date of final compensation plan; rejection of compensation amounts by General Assembly

The compensation amounts set forth in the final compensation plan for each elected public office take effect on the first day of July of the following odd-numbered year unless, before that day, the General Assembly, by a three-fifths vote of the members elected to each house, adopts a concurrent resolution rejecting one or more of the compensation amounts. If the General Assembly rejects a final compensation plan or portion thereof, a member of the General Assembly who, at the time the plan was voted on, voted or would have been entitled to vote on it, is not entitled to an increase in compensation for the duration of the member's term of office.⁹

⁶ Ohio Const., art. II, sec. 20a(B)(1).

⁷ Measured over the 12-month period that ends on the 30th day of September of the immediately preceding year, rounded to the nearest $\frac{1}{10}$ of 1%.

⁸ Ohio Const., art. II, sec. 20a(B)(1).

⁹ Ohio Const., art. II, sec. 20a(B)(2).



Initial actions of the Commission

The Commission must meet in 2015 to review the current compensation of each public office. The proposed and final compensation plans and the accompanying reports must be issued not later than December 31, 2015. The compensation amounts in the initial final compensation plan are to take effect July 1, 2016, unless rejected by the General Assembly as described above. If the General Assembly rejects the initial final compensation plan, or a portion thereof, a member of the General Assembly who, at the time the plan was voted on, voted or would have been entitled to vote on it, is not entitled to an increase in compensation for the duration of the member's term of office.¹⁰

Membership of the Commission

The Commission is to consist of nine members appointed as follows: two by the Governor, two by the President of the Senate, two by the Speaker of the House of Representatives, one by the Minority Leader of the Senate, one by the Minority Leader of the House of Representatives, and one by the Chief Justice of the Supreme Court. The following individuals are not eligible to be appointed as a member of the Commission: (1) an officer or employee of the state or a political subdivision of the state, or a family member, as defined by statute, of an officer or employee of the state or a political subdivision of the state, (2) an individual who was a candidate for election to public office in the state within 12 months before appointment, or (3) an individual who engages during at least a portion of the individual's time to actively advocate legislation on behalf of another.

Members serve two-year terms and may not serve more than four consecutive terms. The Commission is to select its chairperson by a majority vote. Members do not receive compensation, but must be reimbursed for actual and necessary expenses incurred in the performance of Commission duties. Vacancies on the Commission are to be filled in the manner prescribed for the original appointment.¹¹

Initial appointments

The term of an initial appointment to the Commission is to begin upon appointment and end December 31, 2017. If, by November 13, 2015, one or more appointments have not been made, a majority of the Commission members who have been appointed are to appoint, not later than November 15, 2015, a sufficient number of individuals so that the Commission consists of nine members. The Commission must give notice of the appointments to the Governor, President and Minority Leader of the

¹⁰ Schedule I.

¹¹ Ohio Const., art II, sec. 20a(A).



Senate, Speaker and Minority Leader of the House, and Chief Justice of the Supreme Court.¹²

Compensation of charter county or municipal elected officer unaffected

The proposal specifies that the creation and operation of the Commission does not affect the compensation of a county officer elected under a county charter or the compensation of an officer of a municipality elected under the power of local self-government as exercised by a municipality under the Home Rule Amendment to the Ohio Constitution.¹³

Miscellaneous

The Constitution currently prohibits the compensation of a judge of a court of record from being diminished in term. The proposal removes this prohibition.¹⁴

The Constitution also prohibits the compensation of members of the General Assembly from being changed in term. The proposal removes this prohibition as well.¹⁵ But, as described above, it does specify that if the General Assembly rejects all or a portion of the Commission's final compensation plan, a member who, at the time the plan was voted on, voted or would have been entitled to vote on it, is not entitled to an increase in compensation during the member's term of office.¹⁶

The proposal eliminates the Constitutional prohibition against a member of the General Assembly being appointed to a public office, during the member's term or for one year thereafter, if the compensation of the office was increased during the member's term.¹⁷

The proposal eliminates the prohibition against certain executive officers, during the period for which the officers were elected, from receiving an increase or decrease in compensation. The proposal also requires the General Assembly to set the compensation of all nonelected officers not otherwise provided for in the Constitution,

¹² Schedule II.

¹³ Ohio Const., art. II, sec. 20a(C); Ohio Const., art. X, Secs. 3 and 4 (county home rule); Ohio Const., art. XVIII, secs. 3 and 7 (municipal home rule).

¹⁴ Ohio Const., art. IV, sec. 6.

¹⁵ Ohio Const., art. II, sec. 31.

¹⁶ Ohio Const., art. II, sec. 20a(B)(2).

¹⁷ Ohio Const., art. II, sec. 4.

and specifies that that salary cannot change during the officer's existing term, unless the office is abolished.¹⁸

HISTORY

ACTION	DATE
Introduced	02-02-15

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¹⁸ Ohio Const., art. II, sec. 20 and art. III, sec. 19.



As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. J. R. No. 1

Senator Faber

**Cosponsors: Senators Widener, Patton, Oelslager, Obhof, Williams, Seitz,
LaRose, Bacon, Beagle, Hottinger**

JOINT RESOLUTION

Proposing to amend Sections 4, 20, and 31 of Article II, 1
Section 19 of Article III, and Section 6 of Article IV 2
and to enact Section 20a of Article II of the 3
Constitution of the State of Ohio to establish the 4
Public Office Compensation Commission. 5

Be it resolved by the General Assembly of the State of 6
Ohio, three-fifths of the members elected to each house 7
concurring herein, that there shall be submitted to the electors 8
of the state, in the manner prescribed by law at the general 9
election to be held on November 3, 2015, a proposal to amend 10
Sections 4, 20, and 31 of Article II, Section 19 of Article III, 11
and Section 6 of Article IV and to enact Section 20a of Article 12
II of the Constitution of the State of Ohio to read as follows: 13

ARTICLE II 14

Section 4. No member of the general assembly shall, during 15
the term of office for which ~~he~~the member was elected, unless 16
during such term ~~he~~the member resigns therefrom, hold any 17
public office under the United States, or this state, or a 18

political subdivision thereof; but this provision does not 19
extend to officers of a political party, notaries public, or 20
officers of the militia or of the United States armed forces. 21

No member of the general assembly shall, during the term 22
of office for which ~~he~~ the member was elected, or for one year 23
thereafter, be appointed to any public office under this state, 24
which office was created ~~or the compensation of which was~~ 25
~~increased,~~ during the term of office for which ~~he~~ the member was 26
elected. 27

Section 20. The General Assembly, in cases not provided 28
for in this constitution, shall fix the term of office of all 29
officers and the compensation of all nonelected officers; but no 30
change therein shall affect the salary of any nonelected officer 31
during ~~his~~ the nonelected officer's existing term of office, 32
unless the office be abolished. 33

Section 20a. (A) The Public Office Compensation Commission 34
is created. The Commission consists of the following nine voting 35
members: two members appointed by the Governor; two members 36
appointed by the President of the Senate; two members appointed 37
by the Speaker of the House of Representatives; one member 38
appointed by the Minority Leader of the Senate; one member 39
appointed by the Minority Leader of the House of 40
Representatives; and one member appointed by the Chief Justice 41
of the Supreme Court. The following are not eligible to be 42
appointed as a member of the Commission: (1) an officer or 43
employee of the state or a political subdivision of the state or 44
a family member, as defined by law, of an officer or employee of 45
the state or a political subdivision of the state; (2) an 46
individual who, within twelve months before appointment, was a 47
candidate for election to a public office in the state; or (3) 48
an individual who engages during at least a portion of the 49

individual's time to actively advocate legislation on behalf of 50
another. 51

Terms of members of the Commission are for two years. 52
Members may not serve more than four consecutive terms. The 53
Commission chairperson shall be selected by majority vote of all 54
members of the Commission. Members are not entitled to 55
compensation, but shall be reimbursed for actual and necessary 56
expenses incurred in the performance of Commission duties. A 57
vacancy among the members of the Commission shall be filled in 58
the manner prescribed for the original appointment. 59

(B) (1) The Public Office Compensation Commission shall 60
meet each even-numbered year to review the current compensation 61
of each elected public office in the state. The Commission shall 62
consider such factors as are provided by law, including the 63
amount of compensation paid to similarly skilled individuals in 64
the private sector, the amount of compensation paid to 65
individuals in comparable elected public offices in other 66
states, and the current financial condition of and within Ohio. 67
After completing its review, the Commission, by vote of at least 68
five of its members, shall prepare a proposed compensation plan 69
that sets forth the compensation of each elected public office 70
in the state. The Commission shall prepare a report of its 71
proposed compensation plan and shall present the proposed 72
compensation plan and report at not less than three public 73
hearings in the state in order to obtain public input regarding 74
the proposed compensation plan. After conducting its public 75
hearings, the Commission, by vote of at least five of its 76
members, shall issue a final compensation plan that sets forth 77
the compensation of each elected public office in the state. The 78
Commission shall prepare a report of its final compensation plan 79
not later than the last day of December in each even-numbered 80

year. 81

If a proposed or final compensation plan increases or 82
decreases the compensation amount of an elected public office by 83
greater than the lesser of the following, the Commission shall 84
include, in its accompanying report, specific factors that 85
support the increase or decrease: 86

(a) Three per cent; or 87

(b) The percentage increase, if any, in the consumer price 88
index, or a generally available comparable index, over the 89
twelve-month period that ends on the thirtieth day of September 90
of the immediately preceding year, rounded to the nearest one- 91
tenth of one per cent. 92

(2) The compensation amounts set forth in the final 93
compensation plan for each elected public office in the state 94
take effect on the first day of July of the following odd- 95
numbered year unless, before that day, the General Assembly, by 96
a three-fifths vote of the members elected to each house, adopts 97
a concurrent resolution rejecting one or more of the 98
compensation amounts. 99

If the General Assembly rejects a final compensation plan 100
or portion thereof, a member of the General Assembly who, at the 101
time the plan was voted on, voted or would have been entitled to 102
vote thereon, is not entitled to an increase in compensation for 103
the duration of the member's term of office. 104

(C) This section does not affect the compensation of a 105
county officer elected under a county charter that has been 106
adopted under Article X, Sections 3 and 4 of this constitution, 107
or the compensation of an officer of a municipal corporation 108
elected under the power of local self-government as exercised by 109

a municipal corporation under Article XVIII, Sections 3 and 7 of 110
this constitution. 111

Section 31. The ~~members and officers of~~ the General 112
Assembly shall receive a fixed compensation, ~~to be prescribed by~~ 113
~~law, and no other allowance or perquisites, either in the~~ 114
~~payment of postage or otherwise; and no change in their~~ 115
~~compensation shall take effect during their term of office.~~as 116
provided for in Article II, Section 20a of this constitution. 117

ARTICLE III 118

Section 19. The officers mentioned in this article shall, 119
at stated times, receive, for their services, ~~a compensation to~~ 120
~~be established by law, which shall neither be increased nor~~ 121
~~diminished during the period for which they shall have been~~ 122
~~elected~~ as provided for in Article II, Section 20a of this 123
constitution. 124

ARTICLE IV 125

Section 6. (A) (1) The chief justice and the justices of 126
the supreme court shall be elected by the electors of the state 127
at large, for terms of not less than six years. 128

(2) The judges of the courts of appeals shall be elected 129
by the electors of their respective appellate districts, for 130
terms of not less than six years. 131

(3) The judges of the courts of common pleas and the 132
divisions thereof shall be elected by the electors of the 133
counties, districts, or, as may be provided by law, other 134
subdivisions, in which their respective courts are located, for 135
terms of not less than six years, and each judge of a court of 136
common pleas or division thereof shall reside during ~~his~~the 137

judge's term of office in the county, district, or subdivision 138
in which ~~his~~ the judge's court is located. 139

(4) Terms of office of all judges shall begin on the days 140
fixed by law, and laws shall be enacted to prescribe the times 141
and mode of their election. 142

(B) The judges of the supreme court, courts of appeals, 143
courts of common pleas, and divisions thereof, and of all courts 144
of record established by law, shall, at stated times, receive, 145
for their services such compensation as ~~may be provided by law,~~ 146
~~which shall not be diminished during their term of office~~for in 147
Article II, Section 20a of this constitution. The compensation 148
of all judges of the supreme court, except that of the chief 149
justice, shall be the same. The compensation of all judges of 150
the courts of appeals shall be the same. Common pleas judges and 151
judges of divisions thereof, and judges of all courts of record 152
established by law shall receive such compensation as ~~may be~~ 153
~~provided by law~~for in Article II, Section 20a of this 154
constitution. Judges shall receive no fees or perquisites, nor 155
hold any other office of profit or trust, under the authority of 156
this state, or of the United States. All votes for any judge, 157
for any elective office, except a judicial office, under the 158
authority of this state, given by the general assembly, or the 159
people shall be void. 160

(C) No person shall be elected or appointed to any 161
judicial office if on or before the day when ~~he~~ the person shall 162
assume the office and enter upon the discharge of its duties ~~he~~ 163
the person shall have attained the age of seventy years. Any 164
voluntarily retired judge, or any judge who is retired under 165
this section, may be assigned with ~~his~~ the judge's consent, by 166
the chief justice or acting chief justice of the supreme court 167
to active duty as a judge and while so serving shall receive the 168

established compensation for such office, computed upon a per 169
diem basis, in addition to any retirement benefits to which ~~he~~ 170
the judge may be entitled. Laws may be passed providing 171
retirement benefits for judges. 172

SCHEDULE I 173

The Public Office Compensation Commission shall meet in 174
2015 to review the current compensation of each elected public 175
office in the state. The Commission shall issue a proposed 176
compensation plan and final compensation plan, and the 177
accompanying reports, not later than December 31, 2015, in 178
accordance with the process in Article II, Section 20a of the 179
Constitution. 180

The compensation amounts set forth in the final 181
compensation plan for each elected public office in the state 182
shall take effect on July 1, 2016, unless, before that day, the 183
General Assembly, by a three-fifths vote of the members elected 184
to each house, adopts a concurrent resolution rejecting one or 185
more of the compensation amounts. 186

If the General Assembly rejects a final compensation plan 187
or portion thereof, a member of the General Assembly who, at the 188
time the plan was voted on, voted or would have been entitled to 189
vote thereon, is not entitled to an increase in compensation for 190
the duration of the member's term of office. 191

SCHEDULE II 192

The term of an initial appointment to the Commission 193
begins upon appointment and ends December 31, 2017. 194

If, by November 13, 2015, one or more appointments have 195
not been made to the Commission, a majority of the members of 196
the Commission who have been appointed by that date shall 197

appoint, not later than November 15, 2015, a sufficient number 198
of individuals to the Commission so that the Commission consists 199
of nine voting members, and shall notify the Governor, President 200
of the Senate, Speaker of the House of Representatives, Minority 201
Leader of the Senate, Minority Leader of the House of 202
Representatives, and Chief Justice of the Supreme Court of the 203
appointments. 204

SCHEDULE III 205

Some of the proposed amendments to Ohio Constitution, 206
Article II, Sections 4 and 20, and Article IV, Section 6, 207
replace gender specific language with gender neutral language. 208
These amendments are not intended to make substantive changes in 209
the Ohio Constitution. The gender neutral language shall be 210
interpreted as a restatement of, and substituted in a continuing 211
way for, the corresponding gender specific language existing 212
prior to adoption of the proposal. 213

EFFECTIVE DATE AND REPEAL 214

If adopted by a majority of the electors voting on this 215
proposal, Sections 4, 20, and 31 of Article II, Section 19 of 216
Article III, and Section 6 of Article IV of the Constitution of 217
the State of Ohio as amended by this proposal and Section 20a of 218
Article II of the Constitution of the State of Ohio shall take 219
effect immediately and existing Sections 4, 20, and 31 of 220
Article II, Section 19 of Article III, and Section 6 of Article 221
IV of the Constitution of the State of Ohio are repealed 222
effective immediately. 223