



# **OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

2015-2016  
BIENNIAL REPORT

Issued December 15, 2016

Table of Contents

I.	Introduction.....	1
II.	Membership .....	2
III.	Staff.....	3
IV.	Amendments to Rules of Procedure and Conduct .....	3
V.	Subject Matter Committees.....	4
VI.	Standing Committees .....	16
VII.	Proceedings of the Full Commission .....	19
VIII.	Recommendations to the General Assembly .....	22
IX.	Joint Resolutions by the General Assembly .....	23
X.	Next Steps .....	23

## **I. INTRODUCTION**

This 2016 Biennial Report (“Report”) of the Ohio Constitutional Modernization Commission (“Commission”) is issued pursuant to R.C. 103.66. Previously, two biennial reports on the work of the Commission were issued in December 2012 and December 2014.

The Commission was established in 2011 by enactment of Am. House Bill 188 by the Ohio General Assembly.

Under R.C. 103.61, the Commission is 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.

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, requires the affirmative vote of 17 Commission members. A Commission recommendation to amend an existing section or adopt a new section requires the affirmative vote of 22 Commission members.

Under Amended Substitute House Bill 64, consisting of the Main Operating Budget for Fiscal Years 2016-2017, with an effective date of July 1, 2015, the Commission shall complete its work on or before January 1, 2018 and shall cease to exist at that time.

The statutory language governing the Commission is available here:

<http://ocmc.ohio.gov/ocmc/about>.

## II. MEMBERSHIP

Under R.C. 103.63 there are to be 32 members of the Commission. Twelve members of the Commission are to be 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 early 2015, the Commission welcomed three new legislative members to its rolls. Rep. Robert R. Cupp, Rep. Nathan H. Manning, and Rep. Emilia Strong Sykes were selected by their legislative caucuses to serve on the Commission. They were selected to replace House Speaker William G. Batchelder, Rep. Matt Huffman, and Rep. Vernon Sykes, who left the General Assembly at the end of 2014 due to term limitations. In November, Rep. Robert McColley was named to replace Rep. Manning on the Commission.

In early 2016, Sen. Kris Jordan was named to replace Sen. Larry Obhof.

R.C. 103.63 requires that, at the beginning of each even numbered year, the twelve members shall meet, elect a co-chair from each house of the General Assembly, and appoint 20 members who are not members of the General Assembly. Due to the departure of Speaker Batchelder at the end of 2014, in January 2015 the members of the General Assembly elected Speaker Pro Tempore Ron Amstutz to serve as one of the Commission's co-chairs. Sen. Charleta B. Tavares continued her service as the other co-chair. In January 2016, the legislative members of the Commission voted to maintain Rep. Amstutz and Sen. Tavares as co-chairs of the Commission.

The following individuals served on the Commission during 2015 and 2016:

Janet Gilligan Abaray	Larry L. Macon
Rep. Ron Amstutz	Rep. Nathan H. Manning
Herb Asher	Rep. Robert McColley
Roger L. Beckett	Frederick E. Mills
Karla L. Bell	Dennis P. Mulvihill
Paula Brooks	Sen. Larry Obhof
Rep. Kathleen Clyde	Sen. Bob Peterson
Douglas R. Cole	Chad A. Readler
Sen. Bill Coley	Richard B. Sapphire
Rep. Robert R. Cupp	Sen. Tom Sawyer
Rep. Michael F. Curtin	Sen. Michael Skindell
Jo Ann Davidson	Rep. Emilia Strong Sykes
Patrick F. Fischer	Bob Taft
Edward L. Gilbert	Pierrette Talley
Jeff Jacobson	Sen. Charleta B. Tavares
Sen. Kris Jordan	Kathleen M. Trafford
Charles F. Kurfess	Mark Wagoner

### **III. STAFF**

The summer of 2015 concluded the first full year that Executive Director Steven C. Hollon, Counsel to the Commission Shari L. O'Neill, Communications Director Shaunte S. Russell, and Administrative Assistant Jennie Long, assisted the Commission in its work. In addition, the Commission continued to rely on the guidance of Steven H. Steinglass, dean emeritus and professor emeritus at the Cleveland-Marshall College of Law, who served as the senior policy advisor to the Commission.

The Commission also received assistance in 2015 and 2016 from Frank Strigari, legal counsel for the Senate Majority Caucus, Bethany E. Sanders, deputy legal counsel and policy advisor for the Senate Minority Caucus, and Sarah A. Cherry, legal counsel for the House Minority Caucus. In addition, the Commission was assisted by legislative aides during committee meetings including Jenna Beadle, Joe Bizjak, Antwan Booker, Rachael Carl, James Carmean, Lauren DeCamp, Nick Derksen, Maria Haberman, Abe Jacob, Timothy Johnson, Stephanie Megas, Brianna Miller, Jenna Saponaro, Ali Simon, Chris Smith, Justin Stanek, and Sheila Willamowski.

The Commission benefited by legal research from interns Hailey Akah, Stacia Rapp, Elizabeth Erin Oehler, Nicholas Adair, Lee R. Matheson, and Sara Paz Leigh from the Legislation Clinic at the Ohio State University Moritz College of Law, as well as Moritz College of Law summer interns Alex Benson, Bryan Becker, and Joyce Gray. The Commission also benefited from historical research provided by undergraduate intern Andrew Weaver through Kent State University's Columbus Program for Intergovernmental Issues.

### **IV. AMENDMENTS TO RULES OF PROCEDURE AND CONDUCT**

After formally adopting Rules of Procedure and Conduct at its meeting on September 11, 2014, the Organization and Administration Committee determined in 2015 that the Commission could benefit from some slight revisions to the procedure for approving reports and recommendations. Specifically, the committee recommended that, in the instance where no change to a constitutional provision is being recommended by a committee, a vote could be taken in the committee on whether to issue a report and recommendation after only one reading. The Commission adopted this recommendation, further voting that, where an additional reading might be necessary, the reading need not occur at the next consecutive meeting, but could take place at a subsequent meeting, whenever that might take place.

In the fall of 2016, the Commission adopted a proposal by the Organization and Administration Committee to amend 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 recommend no change to an existing constitutional provision (17), amendment of an existing constitutional provision (22), or the adoption of a new constitutional provision (22), as set forth in Section 10, Rule 10.3.

Additionally, in the fall of 2016, the Commission adopted a proposal to reduce the number of standing committees, as provided for in Section 5, and to reorganize the standing committees 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.

A complete copy of the amended Rules is available at: <http://ocmc.ohio.gov/ocmc/rules>.

## **V. SUBJECT MATTER COMMITTEES**

Following the structure adopted by the Commission in the last biennium, and following the Rules of Procedure and Conduct adopted by the Commission in September 2014, the Commission uses six subject matter committees for the purpose of completing its work. The six subject matter committees have been divided into two groups which are informally known as the gray committees and the green committees.

The gray committees are the Education, Public Institutions, and Local Government Committee; the Finance, Taxation, and Economic Development Committee; and the Judicial Branch and Administration of Justice Committee. The green committees are the Bill of Rights and Voting Committee; the Constitutional Revision and Updating Committee; and the Legislative Branch and Executive Branch Committee.

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

#### *Charge*

The Education, Public Institutions, and Local Government Committee is charged generally with reviewing Article VI (Education), Article VII (Public Institutions), Article X (County and Township Organization), Article XV (Miscellaneous), and Article XVIII (Municipal Corporations), and in particular with topics related to school funding, home rule, and adjoining regionalization and economic development.

#### *Committee Members*

Chad A. Readler chaired the committee in 2015 and 2016, with Edward L. Gilbert serving as vice-chair.

Committee members who served at various times during the biennium included Roger L. Beckett, Paula Brooks, Rep. Kathleen Clyde, Sen. Bill Coley, Rep. Robert R. Cupp, Rep. Michael F. Curtin, Larry L. Macon, Sen. Tom Sawyer, Bob Taft, and Pierrette Talley.

#### *Topics Reviewed*

In 2015, the committee concluded its consideration of Article VI, Section 2, relating to the requirement that the General Assembly “secure a thorough and efficient system of common

schools throughout the state.” Two speakers appeared before the committee to describe their experiences and views relating to the maintenance of a thorough and efficient public school system: Stephanie Morales, a member of the Cleveland Municipal School District, and Dr. Renee Middleton, dean of the Patton College of Education and Human Services at Ohio University. The committee also heard from Darold Johnson, legislative director for the Ohio Federation of Teachers, who discussed with the committee his view that Article VI, Section 2 should be retained in its current form because a body of law has been build up around the provision such that the public has an understanding of the meaning of the words “thorough and efficient.”

After considering the views of these speakers, as well as the opinions expressed by the other speakers who had appeared before the committee prior to 2015, the committee voted to retain Article VI, Section 2 in its current form.

After a presentation in 2014 by Robert R. Cupp, in his prior position as chief legal counsel for the Ohio Auditor of State, on the topic of Article VI, Section 1, dealing with funds for religious and educational purposes, the committee determined in 2015 that the provision still served a useful purpose and should be retained in its current form.

In May 2015, the committee began a review of Article VI, Section 3, relating to local boards of education. Wishing to consider the experiences of board members from both a large city school district and a smaller rural district, the committee heard presentations by Gary L. Baker, II, president of the Columbus Board of Education, as well as Eric Germann, member of the board of education of Lincolnview Local Schools. The committee also heard presentations by vocational school board member Sue Steele of the Great Oaks Institute of Technology and Career Development, and by Al Haberstroh, a board member from the Trumbull County Educational Service Center. Although the committee reached a preliminary consensus that Article VI, Section 3 should be retained in its current form, upon further reflection, the committee determined that additional information would assist the committee’s deliberation of the issue, and so, in September 2016, the committee postponed proceeding with a report and recommendation on Article VI, Section 3.

In October 2015, the committee began a review of Article VI, Section 4, providing for a state board of education as well as a superintendent of public instruction. William Phillis, executive director of the Ohio Coalition for Equity and Adequacy of School Funding, presented to the committee on the “Evolution of the State Board of Education,” advocating that the state board return to an all-elected membership instead of the current format in which some board members are elected and some are appointed by the governor. The committee also heard from Tom Gunlock, president of the State Board of Education, on his views regarding the governance structure of the board as it relates to other state entities involved in education policy. The committee received additional presentations relating to Section 4 from Senator Peggy Lehner, Representative Teresa Fedor, Representative Andrew Brenner, and Senator Tom Sawyer. The committee also heard from school board members Stephanie Dodd and Michael L. Collins, former board member Robin C. Hovis, and Jeff Krabill, who is president of the board of education for Sandusky City Schools. Also providing insight was Russell Harris, education research development consultant for the Ohio Education Association, who said his organization supports the creation of an all-appointed state board of education. Considering the constitutional

provision in the context of larger issues involving state educational policy, the committee concluded that further consideration of the topic would be needed before it would be prepared to issue a report and recommendation on Section 4, and so postponed issuing a report and recommendation on Article VI, Section 4.

In April 2016, the committee turned to a review of Article VI, Section 6, providing for the Ohio Tuition Trust Authority. The committee heard a presentation by Timothy Gorrell, executive director of the trust authority, who described the history of the federal tax-advantaged college savings plan. In discussing the provision, the committee concluded that Section 6 should be retained in its current form, and planned to review a report and recommendation reflecting that determination.

In June 2016, the committee heard from David H. Harmon, former executive director of the Ohio Student Loan Commission, and from Rae Ann Estep, former executive director of the Ohio Student Aid Commission, who presented on Article VI, Section 5, relating to loans for higher education. The committee considered whether the provision is still necessary, given that both Mr. Harmon and Ms. Estep confirmed that the state no longer directly administers student loans and that their agencies are no longer in existence. However, it was the consensus of the committee that the policy underpinnings of the section could be important to future efforts to encourage the state's support of funding for higher education, and so concluded the provision should be retained.

In September 2016, the committee heard a presentation by Sen. Bill Coley, who advocated revising Article XV, Section 6 relating to lotteries, charitable bingo, and casino gaming. The committee also began its review of public institutions as provided for in Article VII. In relation to Article VII, Section 1, governing state institutions for the "insane, blind, deaf and dumb," the committee heard from Michael Kirkman, executive director of Disability Rights Ohio, who provided background on the history of state public institutions for the mentally ill as well as for the blind and deaf, and advocated for repeal or modification of the language in Article VII, Section 1.

As 2016 came to a close, the committee continued its review of Article VII, relating to public institutions. The committee particularly considered whether Article VII, Section 1, relating to institutions for the "insane, blind, deaf and dumb," is obsolete, and, if the section is retained, how to modernize its outdated references. The committee plans to hear from additional experts and advocates about the purpose and function of Article VII, Section 1, as well as Section 2 (Directors of Penitentiary, Trustees of Benevolent and Other State institutions; How Appointed), and Section 3 (Filling Vacancies in Directorships of State Institutions), before issuing a report and recommendation on Article VII.

### *Reports and Recommendations*

By December 2015, the Education, Public Institutions, and Local Government Committee had issued reports and recommendations for no change to Article VI, Section 1 (Funds for Religious and Educational Purposes), and Section 2 (School Funds). These two reports and recommendations were adopted by the full Commission at its December 10, 2015 meeting.

In November 2016, the committee issued reports and recommendations for Article VI, Section 5 (Loans for Higher Education), and for Section 6 (Tuition Credits Program). With regard to Section 5, the committee heard presentations by former directors of the state agencies responsible for administering student loans before determining that the creation of a federal student loan program has resulted in the section's disuse. Nevertheless, the committee recognized that future changes to the federal student loan program may render Section 5 necessary in the future. The committee also saw the section as a way of expressing support for programs that forgive student loan debt for graduates who provide necessary services in underserved areas of the state. Thus, the report and recommendation concludes that Section 5 should be retained in its present form.

The report and recommendation for Article VI, Section 6 addresses a state program to encourage saving for higher education. After hearing a presentation by the executive director of the Tuition Trust Authority and considering the history of the creation and growth of college savings plans in Ohio and throughout the country, the committee discussed whether the section was still necessary. The committee concluded that retaining the section would acknowledge the state's obligation to back tuition savings plans with its full faith and credit, as well as protecting holders of any outstanding savings plans. Thus, the report and recommendation recommends that the section be retained in its present form.

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

### *Charge*

The Finance, Taxation, and Economic Development Committee is charged with reviewing Article VIII (Public Debt and Public Works), Article XII (Finance and Taxation), and Article XIII (Corporations), and with topics related to tax reform, and statewide economic development.

### *Committee Members*

Douglas R. Cole chaired the committee in 2015 and 2016, with Karla L. Bell serving as vice-chair.

Individuals who served on the committee during the biennium included Rep. Ron Amstutz, Herb Asher, Rep. Kathleen Clyde, Jo Ann Davidson, Frederick E. Mills, Sen. Bob Peterson, Sen. Tom Sawyer, Sen. Charleta B. Tavares, and Kathleen M. Trafford.

### *Topics Reviewed*

During 2015 and 2016, the committee continued its consideration of how the state addresses debt. The committee heard from Seth Metcalf, deputy treasurer and general counsel to the Ohio Treasurer, as well as from Professor Richard Briffault of the Columbia University Law School, both of whom presented ideas for modernizing Article VIII to eliminate obsolete provisions and to prevent the need for provisions that might become obsolete in the future. The committee also heard a presentation by Timothy S. Keen, director of the Ohio Office of Budget and

Management, who suggested several ways in which the state's debt provisions in Article VIII could be modernized. The committee benefited from presentations by Jonathan Azoff, director of the office of debt management and senior counsel to the Office of the Ohio Treasurer; Kurt Kauffman, acting assistant director of the Office of Budget and Management; and Attorney Gregory W. Stype of Squire Patton Boggs (US) LLP, who is bond counsel to the Ohio Public Facilities Commission.

### *Reports and Recommendations*

The Finance, Taxation, and Economic Development Committee did not forward any reports and recommendations to the Commission in 2015.

In 2016, the committee issued four reports and recommendations.

First, in April 2016, the committee issued a report and recommendation addressing Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, and 2k, additionally proposing two new related sections, Section 2t and Section 18. In its report and recommendation, the committee indicated that Sections 2b through 2h, as well as Sections 2j and 2k, were obsolete because the bonds referenced by the sections have been paid off, or the bonding authority has lapsed. In connection with the elimination of these obsolete provisions, the report and recommendation proposed a new constitutional provision, Section 18, in order to protect the interests of anyone who may be holding an outstanding bond issued under the sections recommended for repeal. Finally, the report and recommendation discussed the function of Section 2i, which authorizes the issuance of lease-appropriation revenue bonds for certain purposes, noting testimony before the committee establishing that a reauthorization of those bonds as general obligation debt would save the state money. In response, the committee recommended the adoption of a new provision, Section 2t, that would allow the General Assembly to reauthorize all lease-appropriation bonds as general obligation debt.

In May 2016, the committee issued a report and recommendation that recommended retaining Article VIII, Sections 1 and 3 in their current form, and revising Article VIII, Section 2 to remove reference to the Sinking Fund based on the committee's conclusion that the Sinking Fund provisions found in Article VIII, Sections 7 through 11 are obsolete. Article VIII, Sections 1, 2, and 3 impose limitations on the state incurring debt, and express a policy of fiscal restraint.

The committee issued a report and recommendation in May 2016 relating to Sections 7, 8, 9, 10, and 11 of Article VIII. Those sections, which had their origin in 1851, provide for a Sinking Fund to pay down state debt and provide for a "Sinking Fund Commission" to supervise the management of the fund. Testimony before the committee established that the Sinking Fund is no longer used for this purpose, and that the functions of the Sinking Fund Commission have been assumed by other state officials and agencies. Thus, the committee recommended that Sections 7 through 11 be repealed.

The three reports and recommendations of the Finance, Taxation, and Economic Development Committee were presented at two meetings of the full Commission, and were adopted by the Commission on September 8, 2016.

In November 2016, the committee issued a report and recommendation relating to Article VIII, Sections 2l, 2m, 2n, 2o, 2p, 2q, 2r, and 2s, all sections approving the issuance of general obligation debt but which, unlike Sections 2b, 2c, 2d, 2e, 2f, 2h, 2j, and 2k, do not involve bonds that have been fully issued and paid off, or for which bonding authority has lapsed. For this reason, the report and recommendation indicates that Sections 2l, 2m, 2n, 2o, 2p, 2q, 2r, and 2s should be retained in their current form.

## **Judicial Branch and Administration of Justice Committee**

### *Charge*

The Judicial Branch and Administration of Justice Committee is charged with reviewing Article IV (Judicial); Article I, Sections 5, 8-10a, 12, 14, 15, 16, and 19a (sections relating to Rights Under Justice); and topics related to judicial organization, the criminal and civil justice system, and the rights of the criminally accused.

### *Committee Members*

Janet Gilligan Abaray chaired the committee during 2015 and 2016, with Patrick F. Fischer serving as vice-chair.

Members of the committee during the biennium included Rep. Michael F. Curtin, Jeff Jacobson, Sen. Kris Jordan, Charles F. Kurfess, Rep. Nathan H. Manning, Rep. Robert McColley, Dennis P. Mulvihill, Sen. Larry Obhof, Richard B. Saphire, Sen. Michael Skindell, Rep. Emilia Strong Sykes, and Mark Wagoner.

### *Topics Reviewed*

After concluding that Article IV, Section 19 (Courts of Conciliation) and Section 22 (Supreme Court Commission) were obsolete provisions and should be repealed, the Judicial Branch and Administration of Justice Committee considered a proposal by Ohio Supreme Court Justice Paul E. Pfeifer to allow the Ohio Supreme Court to take original jurisdiction over actions for declaratory judgment in cases of public or great general interest. In July 2015, the committee took up the question of whether Ohio's grand jury system for procuring criminal indictments was in need of revision.

Presentations to the committee in 2015 included Ohio Supreme Court Chief Justice Maureen O'Connor's presentation regarding the evaluation of judicial elections and candidates, and a review of the legal concepts of standing and justiciability by Professor Michael E. Solimine of the University of Cincinnati College of Law.

Addressing the topic of the grand jury procedure in 2015 and 2016, the committee heard from Sen. Sandra Williams, a member of the Governor's Task Force on Community-Police Relations, on recommending changes to Ohio's grand jury process. The committee also heard from prosecutors Michael T. Gmoser of Butler County, and Morris J. Murray of Defiance County, as

well as from state public defender Timothy Young. The committee benefited from scholarly presentations about grand juries by Professor Gregory M. Gilchrist of the University of Toledo College of Law, who provided a historical overview; and Professor Thaddeus Hoffmeister of the University of Dayton School of Law, who specifically addressed the use of a grand jury legal advisor as provided under the Hawaii Constitution. Providing additional information on the grand jury process in Hawaii was Attorney Ken Shimozone, a grand jury legal advisor who presented his perspective on the Hawaii grand jury system via telephonic conference.

As 2016 closed, the committee continued its discussion of potential changes to Article I, Section 10, specifically in relation to the grand jury system in Ohio, as well as beginning consideration of the Modern Courts Amendment provisions contained in Article IV, including the Supreme Court's rulemaking authority as provided in Section 5(B).

### *Reports and Recommendations*

In 2015, the Judicial Branch and the Administration of Justice Committee issued a report and recommendation that recommended repeal of Article IV, Section 19 (Courts of Conciliation), and Section 22 (Supreme Court Commission). These recommendations were forwarded to the Commission, which adopted both reports and recommendations for presentation to the General Assembly.

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

### *Charge*

The Bill of Rights and Voting Committee is charged with reviewing those sections of Article I involving the rights of all, including Sections 1 (Inalienable Rights); 2 (Right to Alter, Reform, or Abolish Government); 3 (Right to Assemble); 4 (Bearing Arms, Standing Armies, and Military Power); 6 (Slavery and Involuntary Servitude); 7 (Rights of Conscience, Education, the Necessity of Religion and Knowledge); 11 (Freedom of Speech, of the Press, of Libels); 13 (Quartermen Troops); 17 (No Hereditary Privileges); 18 (Suspension of Laws); 19 (Eminent Domain); 19b (Protect Private Property Rights in Ground Water, Lakes and Other Watercourses); 20 (Powers Reserved to the People); and 21 (Preservation of the Freedom to Choose Health Care and Health Care Coverage). In addition, the committee is charged with reviewing the provisions of the Ohio Constitution dealing with voting rights, including all sections of Article V (Elective Franchise) and Article XVII (Elections).

### *Committee Members*

Richard B. Saphire chaired the committee in 2015 and 2016, with Jeff Jacobson serving as vice-chair.

Individuals who served on the committee during 2015-2016 were Rep. Ron Amstutz, Karla L. Bell, Rep. Kathleen Clyde, Douglas R. Cole, Judge Patrick F. Fischer, Edward L. Gilbert, Sen. Bob Peterson, and Sen. Michael Skindell.

### *Topics Reviewed*

The Bill of Rights and Voting Committee spent much of 2015 considering what changes to recommend to Article V, Section 6, which addresses the disenfranchisement of mentally incapacitated individuals. While members of the committee agreed that the provision's current description of such persons as being "idiots and insane persons" was outdated and derogatory, the committee debated what would be the appropriate substitute phrasing, as well as whether a new provision should include a requirement of an adjudication, a mandate for action by the General Assembly in enacting statutory law relating to the issue, and language that would appropriately describe voting as a right, a privilege, or both.

Related to this issue, the committee heard on several occasions from Michael Kirkman, executive director of the advocacy group Disability Rights Ohio, who discussed with the committee the considerations and problems inherent in evaluating mental incapacity for the purposes of voting, and suggested approaches the committee might use in changing the objectionable language. The committee also heard a presentation by Wilson R. Huhn, professor emeritus at the University of Akron School of Law, on behalf of the American Civil Liberties Union of Ohio, who advocated removal or revision of Article V, Section 6.

Addressing Article I, Section 6 (Slavery and Involuntary Servitude) in March 2016, the committee heard from Veronica Scherbauer, criminal justice initiatives coordinator from the Office of Attorney General, who spoke regarding human trafficking; as well as from Representative Emilia Strong Sykes, who expressed concerns relating to the section's allowance of "involuntary servitude" for "punishment of crime."

Turning to Article V, Section 1, relating to the qualifications of an elector, in May 2016 the committee heard a presentation by Carrie L. Davis, executive director of the League of Women Voters of Ohio, who, among other recommendations, advocated a change to Article V, Section 1 that would emphasize voting as a fundamental right. The committee also heard an update from Representative Alicia Reece on her proposal for a Voter Bill of Rights.

As 2016 drew to a close, the committee continued its review of voting issues under Article V.

### *Reports and Recommendations*

Based on its previous decisions to recommend retention of several constitutional provisions in their current form, the committee issued reports and recommendations for Article I, Section 2 (Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges); Section 3 (Right to Assemble); Section 4 (Bearing Arms, Standing Armies, and Military Power); Section 13 (Quartering Troops); Section 17 (No Hereditary Privileges); and Section 20 (Powers Reserved to the People). The committee also issued a report and recommendation by which it recommended retaining Article V, Section 4 (Exclusion from Franchise for Felony Conviction) in its present form.

With regard to Article V, Section 6 (Mental Capacity to Vote), the committee deliberated an amendment that would remove the outdated language referring to persons of diminished mental

capacity. A divided committee ultimately issued a report and recommendation proposing the following language to replace the section’s disenfranchisement of “idiots and insane persons:”

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.

After being approved by the Coordinating Committee, the report and recommendation was considered by the full Commission at its meetings in April and May 2016; however, the proposal failed to gain the requisite 22 votes in favor of adoption, and so the Commission did not adopt the report and recommendation of the Bill of Rights and Voting Committee as it relates to Article V, Section 6.

### **Constitutional Revision and Updating Committee**

#### *Charge*

The Constitutional Revision and Updating Committee is charged with reviewing Article II, Section 1, which provides the initiative process, by which citizens may propose to the General Assembly laws and amendments to the Ohio Constitution, and the referendum process, by which citizens may adopt or reject laws and amendments adopted by the General Assembly. The committee also is charged with reviewing Article XVI, Sections 1, 2, and 3, governing the process by which the General Assembly proposes amendments to the Ohio Constitution as well as the process for holding a constitutional convention in order to revise, amend, or change the Ohio Constitution. Under R.C. 103.61(C), the committee’s express purpose is to carry out the statutory directive that the Commission consider “the problems pertaining to the amendment of the constitution.”

#### *Committee Members*

Dennis P. Mulvihill chaired the committee in 2015 and 2016, with Charles F. Kurfess serving as vice-chair.

Individuals who served on the committee during the biennium included Janet Gilligan Abaray, Roger L. Beckett, Rep. Robert R. Cupp, Rep. Michael F. Curtin, Sen. Kris Jordan, Larry L. Macon, Sen. Larry Obhof, Chad A. Readler, Sen. Tom Sawyer, Rep. Emilia Strong Sykes, and Mark Wagoner.

#### *Topics Reviewed*

The Constitutional Revision and Updating Committee continued its consideration of whether the existing constitutional provisions regarding initiative and referendum should be retained, or whether they should be modified in favor of a system that would encourage members of the public wishing to effect change to pursue the enactment of statutory law rather than the adoption of constitutional amendments.

Significantly, in 2015 the committee focused on ways to prevent persons seeking an economic advantage from using the initiative process to create a monopoly under the constitution. These discussions were beneficial to a General Assembly effort to place an issue on the ballot asking voters to approve a constitutional provision preventing the initiative process from being used in this manner. Thus, “Issue 2” was approved by voters on November 3, 2015, resulting in an amendment to Article II, Section 1e.

In November 2015, the committee continued its ongoing consideration of potential changes to the indirect statutory initiative. As a preliminary step toward issuing a report and recommendation addressing the statutory initiative process, the committee considered whether a revision of the relevant sections should include language eliminating the supplemental petition requirement, keeping the statutory initiative, and indicating that, if the General Assembly passes something different or refuses to act, the proponents of the initiative can go directly to the voters. The committee also considered a “safe harbor” provision preventing the General Assembly from acting on an initiated statute for five years absent a two-thirds vote, and raising the petition signature requirement from three percent to five percent.

The committee continued its consideration of potential changes to the initiative and referendum process throughout 2016. Its discussion culminated in the preparation of a draft that reorganized Article II, Sections 1 through 1g. The draft primarily rearranged the existing constitutional provisions, streamlining the process and making it easier to understand the various steps involved in seeking an amendment to the constitution, a new statutory law, or the repeal of an existing law. In the process, the draft also moved parts of existing sections to several new sections. The first of these, Section 1h, limits the use of the initiative and referendum to pass a law authorizing property classifications for tax purposes, as well as limiting the use of the initiative to amend the constitution to create or grant a monopoly or other commercial benefit not available to others. The draft also adds Section 1i, which applies the powers of the initiative and referendum to municipalities; Section 15 (E), which allows for the enactment of an emergency law; and Section 17, providing an effective date of a law as being 90 days after the governor files it with the secretary of state.

The draft also creates a safe harbor for initiated statutes, eliminates the supplementary petition for initiated statutes, and proposes that the General Assembly be permitted to enact law to modernize the signature gathering and publication processes. As 2016 drew to a close, the committee continued to discuss the draft, and anticipated receiving testimony from interested parties as to editing suggestions.

### *Reports and Recommendations*

The committee will continue to discuss potential changes to the existing constitutional provisions governing the initiative and referendum process, and expects to issue a report and recommendation sometime in 2017.

## **Legislative Branch and Executive Branch Committee**

### *Charge*

The Legislative Branch and Executive Branch Committee is charged with reviewing Article II (Legislative), Article III (Executive), Article IX (Militia), Article XI (Apportionment), Article XIV (Livestock Care Standards Board), as well as all provisions relating to term limits, redistricting and apportionment, and global, interstate, and regional economic development.

### *Committee Members*

Frederick E. Mills chaired the committee in 2015 and 2016, while Paula Brooks served as vice-chair.

Committee members during the biennium included Herb Asher, Sen. Bill Coley, Rep. Michael F. Curtin, Jo Ann Davidson, Rep. Nathan H. Manning, Larry L. Macon, Rep. Robert McColley, Bob Taft, Pierrette Talley, Sen. Charleta B. Tavares, and Kathleen M. Trafford.

### *Topics Reviewed*

In 2015, the committee considered whether to recommend a change to Article II, Section 2, relating to term limits for state legislators. The committee concluded that term limits for state representatives should be lengthened from the current limit of four two-year terms to six two-year terms, with term limits for state senators to be extended from the current limit of two four-year terms to three four-year terms. The committee decided to allow the full Commission to decide whether the extension should apply to sitting legislators.

Speakers who appeared before the committee to discuss term limits included Tony Seegers, director of state policy for the Ohio Farm Bureau Federation, Ray Warrick, who heads “Eight is Enough,” an organization lobbying to keep term limits at eight years, and Phillip Blumel of U.S. Term Limits, a national organization advocating the use of term limits.

In February, the committee considered a proposal to create a public official pay commission, and on this topic heard from Frank Strigari, legal counsel to the Senate Majority Caucus.

With the assistance of discussions in the Legislative Branch and Executive Branch Committee, at the conclusion of 2014, the 130<sup>th</sup> General Assembly adopted a resolution to create a redistricting commission to draw the state legislative districts. The resolution appeared as Issue 1 on the November 2015 ballot, and was approved by voters by a wide margin. As a result, Article XI was amended, with Sections 1 through 15 being repealed, and new Sections 1 through 10 being enacted. The effective date of the new sections is January 1, 2021.

In the fall of 2015 the committee reviewed and discussed two pending General Assembly resolutions that, if adopted, would ask voters to approve the use of a commission to draw Congressional districts. The committee heard presentations by Rep. Kathleen Clyde and Rep. Michael F. Curtin, who presented on their sponsored resolution, H.J.R. 2, as well as from Sen.

Frank LaRose and Sen. Tom Sawyer, who presented on their sponsored resolution, S.J.R. 2. In November 2015, Rep. Clyde and Rep. Curtin returned to the podium to discuss with the committee a draft of a new proposed resolution combining features of both the House and Senate resolutions. Throughout its review and discussion of the topic of legislative and Congressional redistricting, the committee heard presentations by Richard Gunther, professor emeritus of The Ohio State University, Ann Henkener of the League of Women Voters of Ohio, Catherine Turcer of Common Cause Ohio, and Carrie Wimbish of the Ohio Voter Rights Coalition, all of whom advocated for redistricting reform.

The fall of 2015 also saw the committee begin its review of Article II, Section 15(D), the “one subject rule” that restricts legislative enactments to a single subject. After hearing a summary of Ohio Supreme Court decisions interpreting the rule by Commission Counsel O’Neill, the committee also heard a presentation on the history of the one-subject rule by Attorney John Kulewicz.

In 2016, the committee continued its discussion of Congressional redistricting reform, forming a subcommittee to address specific components of a possible recommendation. The committee also received a memorandum and presentation from Executive Director Hollon in which the various sections of Article II were grouped into categories to facilitate committee discussion as well as to streamline the preparation of reports and recommendations. Based on the recognition that Article II, Section 31 addresses compensation of members of the General Assembly, in the fall of 2016 the committee renewed its consideration of a concept first discussed in early 2015 relating to the creation of a public official pay commission that would be charged with determining salaries for legislators and other public officials. In addition, in November 2016, the committee heard a presentation by Ohio State University Moritz College of Law Professor Steven F. Huefner on the subject of legislative privilege, a concept memorialized in the constitution at Article II, Section 12, containing the “speech or debate” clause.

### *Reports and Recommendations*

The committee issued a report and recommendation with two separate options for addressing Article II, Section 2 (Election and Term of State Legislators). One option recommends extending term limits from eight years to 12 years, but only allowing newly-elected legislators to take advantage of the extension. The other option recommends extending the limits for all legislators.

In addition, in December 2016, the committee heard a first presentation of two reports and recommendations. The first report and recommendation, addressing Article II, Sections 3, 4, 5, and 11, describes that these sections relate to the qualifications of members of the General Assembly, as well as providing for filling vacancies in legislative seats. The second report and recommendation, covering Article II, Sections 6, 7, 8, 9, 13, and 14, indicates that these sections concern the organization of the General Assembly and the basic standards for conducting the business of the body. Both reports and recommendations conclude that no change is needed for the sections, which were reviewed and, in some cases, revised in the 1970s as a result of work performed by the Ohio Constitutional Revision Commission.

## **VI. STANDING COMMITTEES**

The Commission also has four standing committees including the Organization and Administration Committee, the Coordinating Committee, the Public Education and Information Committee, and the Liaisons with Public Offices Committee.

### **Organization and Administration Committee**

#### *Charge*

Under Rule 5.3 of the Rules of Procedure and Conduct, the Organization and Administration Committee is charged with making recommendations to the Commission and staff regarding budget, staffing, ethics, and rules.

#### *Committee Members*

Mark Wagoner served as chair in 2015 and 2016, with Edward L. Gilbert serving as vice-chair.

Individuals who served on the committee during the year were Paula Brooks, Rep. Kathleen Clyde, Douglas R. Cole, Rep. Robert R. Cupp, Charles F. Kurfess, and Sen. Michael Skindell.

#### *Topics Reviewed*

In July 2015, the Organization and Administration Committee met to receive an update on the budget for the 2015 fiscal year, as well as to consider recommended changes to the Rules of Procedure and Conduct for the Commission. In September, the committee issued revisions to the rules that allow the committees to issue a recommendation for no change after only one presentation, rather than two presentations as the rules previously required. This revision was then presented to the Commission, which adopted it by a unanimous roll call vote. The Commission additionally adopted a modification to the rules that removed the requirement that the meetings at which a change is considered be consecutively held.

In 2016, the committee approved a change that would alter Rule 3.9 of the Commission's Rules of Procedure and Conduct to reduce from 21 to 17 the number of Commission members needed to form a quorum for the purpose of conducting business. The recommended change in the rules was presented to the full Commission for two consecutive meetings, and was approved by the Commission at its October 2016 meeting.

Also in 2016, the committee considered a proposal to revise Rules 5.4 and 5.5 of the Rules of Procedure and Conduct in order to reorganize the standing committees to better facilitate their functions. The change would combine two committees that meet jointly, the Public Education and Information Committee with the Liaisons with Public Offices committee, renaming the new committee the "Public Information and Liaisons with Public Offices Committee." This proposed change was approved by the Organization and Administration Committee at its November 2016 meeting, and adopted by the Commission at its December 2016 meeting.

## Coordinating Committee

### *Charge*

Under Rule 5.6 of the Rules of Procedure and Conduct, the Coordinating Committee is charged with coordinating the study of the Ohio Constitution by each subject matter committee.

### *Committee Members*

Kathleen M. Trafford served as chair in 2015 and 2016, with Jo Ann Davidson serving as vice-chair.

Committee members during the year included Janet Gilligan Abaray, Sen. Bill Coley, Patrick F. Fischer, Sen. Kris Jordan, Dennis P. Mulvihill, Sen. Larry Obhof, and Rep. Emilia Strong Sykes.

### *Topics Reviewed*

In 2015, The Coordinating Committee approved 11 reports and recommendations for presentation to the full Commission. These included:

Article IV, Section 19	Courts of Conciliation
Article IV, Section 22	Supreme Court Commission
Article I, Section 2	Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges
Article I, Section 3	Right to Assemble
Article I, Section 4	Bearing Arms, Standing Armies, and Military Power
Article I, Section 13	Quartering Troops
Article I, Section 17	No Hereditary Privileges
Article VI, Section 1	Funds for Religious and Educational Purposes
Article VI, Section 2	School Funds
Article I, Section 20	Powers Reserved to the People
Article V, Section 4	Exclusion from Franchise for Felony Conviction

The committee also was responsible for working with staff in preparing the 2015 Annual Report.

In addition, in November, the Coordinating Committee took on the role of reviewing the progress of the subject matter committees, and, in that capacity, began the process of hearing status reports from the chairs of the subject matter committees. In November, the committee heard updates from Chad A. Readler, chair of the Education, Public Institutions, and Local Government Committee, and from Frederick E. Mills, chair of the Legislative Branch and Executive Branch Committee. In December, the committee heard updates from Douglas R. Cole, chair of the Finance, Taxation, and Economic Development Committee, and from Richard B. Sapphire, chair of the Bill of Rights and Voting Committee.

In 2016, the Coordinating Committee approved eight reports and recommendations for presentation to the full Commission:

Article II, Section 2	Election and Term of State Legislators
Article V, Section 6	Mental Capacity to Vote
Article VIII, Sections 1, 2, and 3	State Debt
Article VIII, Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i, 2j, 2k, and Proposed Sections 2t and 18	Authorization of Debt Obligations
Article VIII, Sections 7, 8, 9, 10, and 11	Sinking Fund and Sinking Fund Commission
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, and 2s	Additional Authorization of Debt Obligations

In October 2016, the committee heard a presentation by Steven H. Steinglass, senior policy advisor, relating to the use of gender-specific language in the constitution. The committee considered whether the duty of reviewing and recommending changes to this language should fall to the Coordinating Committee, or whether another committee of the Commission should be charged with this task.

The committee also was responsible for working with staff in preparing the 2015-16 Biennial Report.

### **Public Education and Information Committee**

#### *Charge*

Under Rule 5.4 of the Rules of Procedure and Conduct, the Public Education and Information Committee is charged with 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, and receive input from the public.

#### *Committee Members*

Roger L. Beckett chaired this committee in 2015 and 2016, with Larry L. Macon serving as vice-chair.

Committee members included Rep. Michael F. Curtin, Jeff Jacobson, Sen. Bob Peterson, Chad A. Readler, Richard B. Saphire, and Sen. Tom Sawyer.

#### *Topics Reviewed*

The Public Education and Information Committee worked with Communications Director Russell in formulating and reviewing a communications plan for publicizing the work of the

Commission. As a part of the plan, in 2015 the Commission's website was redesigned and updated to provide a more attractive look, to include more information, and to better facilitate public use. The website was modified in November 2015 to include a page facilitating access to reports and recommendations that have been adopted by the Commission.

The committee's meetings were held in joint sessions with the Liaisons with Public Offices Committee.

### **Liaisons with Public Offices Committee**

#### *Charge*

Under Rule 5.5 of the Rules of Procedure and Conduct, the Liaisons with Public Offices Committee is charged with providing information and maintaining relations with all public offices reasonably affected by any proposal or action of the committee.

#### *Committee Members*

Herb Asher served as chair in 2015 and 2016, with Governor Bob Taft serving as vice-chair.

Committee members were: Rep. Ron Amstutz, Karla L. Bell, Rep. Nathan H. Manning, Rep. Robert McColley, Frederick E. Mills, Pierrette Talley, and Sen. Charleta B. Tavares.

#### *Topics Reviewed*

The Liaisons with Public Offices Committee worked and met jointly with the Public Education and Information Committee in developing a communications plan for the Commission.

## **VII. PROCEEDINGS OF THE FULL COMMISSION**

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. The question arose specifically with regard to House Joint Resolution 12 (state legislative redistricting) from the 130<sup>th</sup> General Assembly, which was placed on the November 2015 ballot as "Issue 1." 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 January 2016, the Commission considered a report and recommendation from the Bill of Rights and Voting Committee that recommended retaining Article V, Section 4 (Exclusion from Franchise for Felony Conviction) in its present form. 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, that 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.

At its October 2016 meeting, the Commission considered for a second time a proposal to amend Section 3, Rule 3.9 of the Commission’s Rules of Procedure and Conduct. The amendment changes the definition of a quorum as being 17, rather than 21 members, a change that would allow the Commission to pass on minutes or otherwise conduct business if 17 or more members are present, but does not alter the requirement that 22 members must vote to pass on a proposal to change an existing constitutional provision. The Commission adopted the change by a unanimous vote of the 24 members who were present.

Also 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.

### *Commission Membership*

In accordance with the Commission’s statutory charge, the terms of all public members of the Commission concluded at the end of 2015, subject to reappointment for another term by the legislative members of the Commission. To facilitate this process, at the request of Director Hollon, in November 2015 public members completed a survey designed to gauge their interest in continuing on the Commission, and to determine whether they would like to be reassigned to a different committee.

On January 6, 2016, the legislative members of the Commission met for the purpose of determining the co-chairs for the coming biennium, as well as appointing the 20 public, or non-legislative, members of the Commission. Legislative members voted to continue the co-chairmanship of Rep. Ron Amstutz and Sen. Charleta Tavares, as well as voting to reappoint all 20 public members.

At the end of 2016, the Commission was slated to lose three legislative members. Rep. Mike Curtin announced his intention to leave legislative service, while Rep. Ron Amstutz and Sen.

Tom Sawyer were term limited. Legislative members of the Commission plan to meet in January 2017 to approve replacements for these departing members, as well as to elect a new co-chair due to the departure of Rep. Amstutz.

### VIII. RECOMMENDATIONS TO THE GENERAL ASSEMBLY

During 2015 and 2016, the Commission made the following recommendations to the General Assembly.

The Commission recommended that the following sections of the Ohio Constitution be repealed as obsolete:

Article IV, Section 19	Courts of Conciliation
Article IV, Section 22	Supreme Court Commission

The Commission recommended that the following sections of the Ohio Constitution be retained in their current form:

Article I, Section 2	Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges
Article I, Section 3	Right to Assemble
Article I, Section 4	Bearing Arms, Standing Armies, and Military Power
Article I, Section 13	Quartering Troops
Article I, Section 17	No Hereditary Privileges
Article I, Section 20	Powers Reserved to the People
Article V, Section 4	Exclusion from Franchise for Felony Conviction
Article VI, Section 1	Funds for Religious and Educational Purposes
Article VI, Section 2	School Funds
Article VIII, Section 2i	Capital Improvement Bonds

The Commission recommended that the following existing sections of the Ohio Constitution be amended:

Article VIII, Section 2	Incurring Debt for Defense or to Retire Outstanding Debts
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The Commission recommended that the following sections of the Ohio Constitution be repealed as obsolete:

Article VIII, Section 2b	World War II Veterans' Compensation Fund
Article VIII, Section 2c	Construction of State Highway System
Article VIII, Section 2d	Korean Conflict Veterans' Compensation Fund
Article VIII, Section 2e	Funds for Highway and Public Building Construction
Article VIII, Section 2f	Bond Issue for Schools, Universities, Conservation, etc.
Article VIII, Section 2g	Bond Issue for Highway Construction
Article VIII, Section 2h	Bond Issue for State Development
Article VIII, Section 2j	Vietnam Conflict Veterans' Compensation Fund

Article VIII, Section 2k	Bonds for Local Government Public Infrastructure
Article VIII, Section 7	Sinking Fund
Article VIII, Section 8	Commissioners of the Sinking Fund
Article VIII, Section 9	Biennial Report of the Sinking Fund Commissioners
Article VIII, Section 10	Application of the Sinking Fund
Article VIII, Section 11	Semiannual Report of the Sinking Fund Commissioners

The Commission recommended that the Ohio Constitution be amended to add the following sections:

Article VIII, Section 2t	General Obligation Bonds for Mental Health Facilities, etc.
Article VIII, Section 18	Securing Outstanding Debt Issued Under Prior Authority

## **IX. JOINT RESOLUTIONS BY THE GENERAL ASSEMBLY**

Based on the Commission’s vote taken at the October 2016 meeting, by which the Commission expressed its support for having legislative members introduce Commission recommendations as joint resolutions in the General Assembly, Rep. Mike Curtin and Rep. Ron Amstutz worked with the Legislative Service Commission to prepare four joint resolutions. The following joint resolutions were introduced in the House of Representatives in November 2016:

- HJR 9, proposing to enact Section 2t of Article VIII relative to the issuance of general obligation bonds to pay the costs of facilities for mental health and developmental disabilities, parks and recreation, and housing of agencies of state government;
- HJR 10, proposing to enact Section 18 and to repeal Sections 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2j, and 2k, of Article VIII in order eliminate obsolete general obligation debt sections and to protect the holders of bonds that have not yet expired;
- HRJ 11, proposing to amend Section 2 of Article VIII to eliminate reference to the sinking fund, and to repeal Sections 7 through 11 of Article VIII concerning the sinking fund and the Sinking Fund Commission; and
- HJR 12, proposing to repeal Sections 19 and 22 of Article IV, eliminating the authority of the General Assembly to establish courts of conciliation and eliminating the authority of the governor to appoint a supreme court commission.

At the November 2016 Commission meeting, Commission Co-chair Rep. Amstutz announced that companion legislation would be introduced in the Senate by Sen. Bob Peterson and Sen. Charleta Tavares. On December 1, 2016, HJR 9, HJR 10, and HJR 11 were consolidated and introduced as HJR 13.

## **X. NEXT STEPS**

In the two years staff has been providing assistance, the Commission has made significant progress in addressing the many sections of the Ohio Constitution. However, additional work is

needed to complete the review process, with the following topics expected to be taken up in the coming year.

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

The Bill of Rights and Voting Committee anticipates completing its review of Article V, relating to the elective franchise, and may consider recommending an update to Article V, Section 1 defining who is an elector, and Section 7, governing primary elections. The committee also plans to study sections of Article I, the Bill of Rights, specifically addressing whether modernization may be needed for Article I, Section 6 (Slavery and Involuntary Servitude) and Section 19 (Eminent Domain).

### **Constitutional Revision and Updating Committee**

The Constitutional Revision and Updating Committee plans to continue its comprehensive review of Ohio's Initiative and Referendum process, recognizing the interrelationship between all sections that have been assigned to it. The committee expects its final work product to be a recommendation for a complete redraft of the relevant sections in order to clarify and simplify a process that has not been significantly altered since its adoption in 1912. The committee also will consider Article XVI, which relates to the General Assembly's ability to propose constitutional amendments, and the process for recommending amendments by constitutional convention.

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

The Education, Public Institutions, and Local Government Committee expects to complete its review of Article VII, relating to Public Institutions, in early 2017, before moving on to discuss whether changes may be in order for Article XV, Section 6, relating to casino gaming. The committee also will review important aspects of county, township, and municipal organization as provided in Article X and Article XVIII.

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

The Finance, Taxation, and Economic Development Committee expects to complete its review of Article VIII in early 2017 by issuing reports and recommendations for Sections 4 through 6, relating to joint enterprises between government and private corporations and state assumption of local government debt; and Sections 13 through 17, relating to the state's fostering of economic development. The committee also will consider whether to recommend a provision that would prescribe the duties of the treasurer of state. The committee expects to turn to a review of finance and tax-related provisions in Article XII, as well as considering whether and how to modernize sections related to corporations in Article XIII, most of which are unchanged since their adoption in 1851.

### **Judicial Branch and Administration of Justice Committee**

The Judicial Branch and Administration of Justice Committee expects to wrap up its consideration of Article I, Section 10, specifically the grand jury, before turning to other sections of the Bill of Rights related to the criminal and civil justice systems. Specific topics the committee may consider include sections prohibiting transportation out of the state for in-state crime, imprisonment for debt, suspension of the writ of habeas corpus, restrictions on excessive bail, the right to jury trial, and the right to redress for injury. In recognition of new technological surveillance capabilities, the committee also may address whether to modernize Article I, Section 14, relating to the right to be secure against unreasonable searches and seizures. In relation to Article IV, governing the judicial branch, the committee will consider possible revisions to sections originally adopted as part of the Modern Courts Amendment.

### **Legislative Branch and Executive Branch Committee**

The Legislative Branch and Executive Branch Committee will complete its review of the sections of Article II related to the practices and procedures of the General Assembly, and may recommend the adoption of a provision that would create a public official compensation commission. The committee also will continue to consider whether to recommend a provision regarding Congressional redistricting. In addition to reviewing sections of Article II related to employment, such as Section 34 regarding the welfare of employees, Section 34a, regarding minimum wage, and Section 35, regarding workers' compensation, the committee also expects to consider the duties and functions of the executive branch as set out in Article III.