



**OHIO CONSTITUTIONAL
MODERNIZATION COMMISSION**

**DECEMBER 10, 2012
REPORT OF PROCEEDINGS**

TABLE OF CONTENTS

Introduction.....	3
Membership	4
Enabling Language	5
Summary of Meetings.....	7
March 22, 2012 Colloquium.....	12

INTRODUCTION

The Ohio Constitutional Modernization Commission was established in R.C. 103.61 with the passage of the Am. House Bill 188. The Commission is modeled after the 1970s Ohio Constitutional Revision Commission, whose published recommendations may be accessed at <http://www.lsc.state.oh.us/ocrc/>.

The Ohio Constitutional Modernization Commission is charged under R.C. 103.61 with:

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

Under the statute, any recommendations of the Commission must receive a two-thirds vote of the membership. In the event of a call for a constitutional convention, the Ohio Constitutional Modernization Commission must report to the General Assembly its recommendations with respect to the organization of a convention, and report to the convention its recommendations with respect to amendment of the Constitution. The Commission is directed to make its first report to the General Assembly by January 1, 2013 and every two years until July 1, 2021.

This report details the proceedings of the Ohio Constitutional Modernization Commission from December 28, 2011 through January 1, 2013 and was approved by a vote of 30-0 at the December 10, 2012 meeting of the Commission.

MEMBERSHIP

Janet Gilligan Abaray (Cincinnati, Ohio)
Representative Ron Amstutz (Wooster, Ohio)
Herb Asher (Columbus, Ohio)
Speaker William G. Batchelder, Co-Chair (Medina, Ohio)
Roger L. Beckett (Ashland, Ohio)
Karla L. Bell (Shaker Heights, Ohio)
Paula Brooks (Upper Arlington, Ohio)
Senator Capri Cafaro (Hubbard, Ohio)
Representative Kathleen Clyde (Kent, Ohio)
Douglas R. Cole (Upper Arlington, Ohio)
Jo Ann Davidson (Reynoldsburg, Ohio)
Patrick F. Fischer (Cincinnati, Ohio)
Judith L. French (Grandview Heights, Ohio)
Edward L. Gilbert (Akron, Ohio)
Representative Matt Huffman (Lima, Ohio)
Senator Shannon Jones (Springboro, Ohio)
Charles F. Kurfess (Perrysburg, Ohio)
Larry L. Macon (Richfield, Ohio)
Frederick E. Mills (Upper Arlington, Ohio)
Dennis P. Mulvihill (Hudson, Ohio)
Representative Dennis Murray (Sandusky, Ohio)
Senator Larry Obhof (Medina, Ohio)
Chad A. Readler (Columbus, Ohio)
Joseph P. Rugola (Westerville, Ohio)
Richard B. Sapphire (Dayton, Ohio)
Sen. Michael Skindell (Lakewood, Ohio)
Representative Vernon Sykes, Co-Chair (Akron, Ohio)
Robert A. Taft (Springfield, Ohio)
Senator Charleta B. Tavares (Columbus, Ohio)
Kathleen M. Trafford (Columbus, Ohio)
Senator Mark Wagoner (Ottawa Hills, Ohio)
Richard S. Walinski (Toledo, Ohio)

ENABLING LANGUAGE

R.C. 103.61 Ohio constitutional modernization commission

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

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

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

R.C. 103.62 Report to general assembly

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

R.C. 103.63 Establishment; members; compensation

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

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

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

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

R.C. 103.65 Staff

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

R.C. 103.66 Timing of reports

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

R.C. 103.67 Expiration of commission

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

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

SUMMARY OF MEETINGS

December 28, 2011

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

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

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

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

Speaker Batchelder raised the topic of the procedure and timeline for receiving and reviewing resumes for the additional 20 public members of the Commission. He suggested that resumes be sent to the House and Senate Clerks' offices with a deadline of the end of January. Chairman Sykes moved in the alternative that resumes be jointly submitted to the co-chairs offices and immediately provided to Commission members. Sen. Skindell asked to clarify if Tuesday, January 31, 2011 was the deadline by which resumes must be submitted, to which Speaker Batchelder responded in the affirmative. Hearing no objections, Speaker Batchelder stated that applications for the 20 open public member seats on the commission should be submitted jointly to the Co-chairs offices by January 31, 2011. Sen. Obhof asked if the Commission would be reconvening in March or April to appoint the 20 public members, to which Speaker Batchelder

said he anticipated that the Commission would reconvene in mid-February, and that the Co-Chairs would confer on a specific date. Speaker Batchelder said the Commission could work with various public interest groups and associations to publicize the submission process, and asked that Commission members please share their suggestions on such groups with the Commission.

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

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

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

February 16, 2012

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

Speaker Batchelder asked the members to review and approve the minutes from the December 28, 2011 meeting. Senator Skindell moved that the minutes be amended to reflect his attendance at the meeting; the amendment was accepted without objection. Seeing no objections, the minutes as amended were approved.

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

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

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

On the topic of a possible location for the Colloquium, Speaker Batchelder suggested the auditorium in the Riffe Center. Senator Skindell noted that the Supreme Court building was another option. Senator Tavares stated that the venue should be centrally located, have ample parking, and present no issues with access for the public. Rep. Clyde said that it would be helpful if the Colloquium Planning Committee could recommend any reading for the Commission members in advance of the colloquium, to which Professor Rogers stated that they could send advance copies of their research papers. Co-Chair Sykes asked the Commission members if they had any input on topics for the Colloquium. Senator Skindell said that he would like to see some information on the national or historical constitutional commission. Co-Chair Sykes stated that the public member applicants as well as the general public would be invited to the event.

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

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

September 13, 2012

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

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

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

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

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

The motion was seconded by Rep. Sykes. Speaker Batchelder asked if there was any discussion on the motion. Senator Obhof stated that after consulting with the Joint Legislative Ethics Commission, he requested pursuant to Senate Rule 47 to be excused from the vote. Rep. Sykes stated that he was proud of the credentials of the applicant pool and stated that the Co-Chairs would retain the list of other applicants as a pool of potential future appointees since the commission is able to continue making recommendations until July 1, 2021. The roll was called and the Commission public members were appointed to terms ending January 1, 2014 by a vote of 10-0.

Speaker Batchelder invited Steven Steinglass, Dean Emeritus of the Cleveland-Marshall College of Law, to introduce himself to the Commission, present a roadmap on how the commission should proceed with its work and how he could be of assistance. Professor Steinglass suggested that the Commission allow some time for members to get to know each other, educate members on the successes and failures of the 1970s Constitutional Revision Commission and other state

constitutional commissions; and decide upon an organizational structure and initial schedule. In response to a question from Rep. Matt Huffman, Professor Steinglass stated that in the 100 years since the 1912 constitutional convention, 102 out of 150 amendments the General Assembly placed on the ballot were approved, which compared favorably to only 18 out of 67 voter initiated amendments that were ratified. Sen. Tavares thanked Professor Steinglass for his suggestions, and noted that involving the primary and secondary education community in the work of the Commission was important.

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

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

MARCH 22, 2012 COLLOQUIUM

The Ohio State University Moritz College of Law, through a grant funded by the Joyce Foundation, formed a Colloquium Planning Committee in 2011 to examine process options and plan a constitutional modernization colloquium for the Commission and the public. On March 22, 2012, the Constitutional Modernization Colloquium was held at the Riffe Capitol Theatre in downtown Columbus and featured discussions on other states' experiences with constitutional commissions, Ohio's history of constitutional revision, the role of state constitutions, and procedural options for the Constitutional Modernization Commission.

The recorded Colloquium program and the full Colloquium report may be accessed on the Commission website at: <http://ocmc.ohio.gov/ocmc/materials?1>.

The Executive Summary of that report is excerpted below.

Executive Summary

The Colloquium Planning Committee was formed in response to the creation of the Ohio Constitutional Modernization Commission. The Committee is comprised of a diverse group of nineteen individuals concerned about the future of Ohio. Members of the Colloquium Planning Committee include former legislators, current and former state officials, retired judges, law professors, and individuals associated with the practicing bar. The Committee's goal is to provide an overview of process options that it has discussed and reviewed – most rooted in history and experience – that might assist the Modernization Commission.

This Executive Summary itemizes process options that the Committee thinks worthy of the Modernization Commission's consideration. After reviewing the history of constitutional revision commissions in Ohio and elsewhere, the Committee suggests three categories of process options that might assist the Commission in achieving its statutory objectives. The categories include internal processes, external processes, and Commission research and staffing.

Internal Process Options

Decision-Making Process Options

- Early educational opportunities to provide commissioners with background information on the history of the revision process and the Ohio Constitution.
- Aspirational and procedural ground rules that help provide direction for commissioners and help participants understand their roles and responsibilities.
- Facilitation training for the committee chairs within the Commission to assist with consensus building.
- Relationship and trust building activities that create bonds among commissioners and facilitate the viewpoint sharing process.

Organizational Process Options

- An internal code of conduct that serves as a guide for the conduct of commissioners and

staff.

- Stakeholder meetings to identify and define substantive issues.
- Options for the structure and timing of committees.
- Phases of the process that provide structure for the Commission’s work.

External Process Options

Online Tools that Inform the Public and Enhance Participation

- An official Commission website that provides updated information and news.
- An electronic monthly newsletter that informs the public about the Commission’s activities and upcoming meetings.
- Interactive online components, such as “Choicebooks,” online chat sessions, and “Virtual Tables” that enhance public participation by facilitating directed substantive and constructive public input.

Outside Resources that Support the Commission’s Efforts

- Colleges, universities, and professional organizations that provide additional legal and scientific research.
- Media strategies and public service announcements that reach a broad segment of Ohio.
- A social media strategy that embraces new forms of electronic communication.

Final Commission Recommendations Made to the General Assembly

- Periodic in-person presentations of final Commission recommendations to the General Assembly that explain the rationale behind amendment recommendations.

Research and Staff Options

- A director with broad authority to manage the day-to-day affairs of the Commission and hire additional staff.
- Administrative assistant(s) to support Commission activities. Possibly a deputy director and additional staff employees, such as professional, technical, clerical, and research associates, depending on workload.
- Staff attorney(s) to engage in research and to coordinate research conducted by outside institutions.
- A public information officer to manage Commission communications, including establishing, maintaining, and managing an official website.
- Assistance from the Legislative Service Commission with research, drafting, and staff services.
- Part-time assistance from a financial officer.

The internal process options are presented as options that may assist the Commission’s decision-making and organizational operations. The external process options are presented as options that may enhance the Commission’s interactions with the public. The research and staff options are presented to emphasize the need for independent and capable individuals to support the Commission.

The Committee anticipates that the process options outlined above will promote openness, transparency, sound decision-making, and meaningful public involvement in the modernization of Ohio's Constitution. In addition, the Committee anticipates that the options will help the Commission in its statutory mission to:

- Study the Ohio Constitution;
- Promote an exchange of experiences and suggestions respecting desired changes in the Constitution;
- Consider the problems pertaining to amending the Constitution; and
- Make recommendations to the General Assembly for amendments to the Ohio Constitution.

Part I includes background information about the Colloquium Planning Committee. Part II discusses the Ohio Constitutional Revision Commission of the 1970s and the legislation establishing the Constitutional Modernization Commission. Part III includes historical information about state constitutional reform efforts across the nation. Part IV presents internal process options for the Commission's consideration. Part V presents process options relating to the Commission's external relations. Part VI presents research and staff options for the Commission. Finally, Part VII closes the report with some concluding remarks.