



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE CONSTITUTIONAL REVISIONS AND UPDATING COMMITTEE

FOR THE MEETING HELD
THURSDAY, DECEMBER 11, 2014

Call to Order:

Chair Mulvihill called the meeting of the Constitutional Revisions and Updating Committee to order at 2:25 p.m.

Members Present:

A quorum was present with committee members Mulvihill, Abaray, Wagoner, Curtin, Readler, and Asher in attendance.

Approval of Minutes:

The committee approved the minutes of the October 9, 2014 meeting.

Topics Discussed:

Carrie Kuruc, elections counsel for Secretary of State Jon Husted, presented on the role of the Ohio Ballot Board in getting issues on the statewide ballot.

Referendum

Ms. Kuruc indicated the most direct method of getting an issue on statewide ballot is through a referendum. Matters not subject to referendum include tax levies, appropriations for current expenses, and emergency laws.

Ms. Kuruc indicated the first step in the process is to submit a written petition signed by 1,000 registered voters to the Secretary of State along with the full text of the law and a summary of the law or section of the law to be referred, with a copy to the Attorney General. Within 10 days the Secretary of State forwards the signatures to county boards of elections to confirm the signatures are valid, and the Attorney General determines if the summary is a fair and truthful representation of the law. If the petition meets both requirements the petition is certified. If it fails to meet the test, the petitioners can begin again.

She then stated that the total number of signatures on the petition must equal at least six percent of the total vote cast for the office of governor at the last gubernatorial election, and come from at least 44 of the 88 Ohio counties. From each of these 44 counties, there must be signatures equal to at least three percent of the total vote cast for the office of governor in that county at the last gubernatorial election.

The petition must be filed with the Secretary of State within 90 days after the law or section of the law to be referred, has been filed with the Secretary of State by the Governor.

The referendum will only appear on the general election ballot, and the law will not go into effect unless approved by a majority of the voters.

Citizen Initiated Constitutional Amendment

Ms. Kuruc noted that for a citizen initiated constitutional amendment the process is the same as for a referendum except the Attorney General certifies the signatures and the total number of signatures on the petition must equal at least ten percent of the total vote cast for the office of governor at the last gubernatorial election, and come from at least 44 of the 88 Ohio counties. From each of these 44 counties, there must be signatures equal to at least five percent of the total vote cast for the office of governor in that county at the last gubernatorial election.

The petition must be filed with the Secretary of State not later than 125 days prior to the general election at which the proposed constitutional amendment is to be on the ballot.

Any amendment approved by the majority of the voters will become effective 30 days after the election.

Initiated Statute

The initiated statute is the most complicated of the options. The process is the same as for a referendum and citizen-initiated constitutional amendment except the total number of signatures on the petition must equal at least three percent of the total vote cast for the office of governor at the last gubernatorial election, and come from at least 44 of the 88 Ohio counties. From each of these 44 counties, there must be signatures equal to at least one and one-half percent of the total vote cast for the office of governor in that county at the last gubernatorial election.

The petition must be filed with the Secretary of State not less than ten days prior to the commencement of any session of the Ohio General Assembly, which is the first Monday in January.

Any law approved by the majority of the voters will become effective 30 days after the election.

General Assembly Initiated Constitutional Amendment

The most commonly used method is General Assembly initiated constitutional amendment. Either branch of the General Assembly may propose amendments to the Ohio Constitution, and are typically proposed by joint resolution. A three-fifths vote in favor of the joint resolution in both chambers is required for its passage.

If a majority of the voters approve the amendment, it becomes part of the Constitution.

Of these different ways of getting issues on the ballot, the General Assembly initiated constitutional amendment is the most common. Between 1913 and 2014, 154 amendments were proposed using this method, with 103 being approved.

The citizen initiated constitutional amendment is also common but not as successful. During the same time period 72 amendments were proposed with only 19 being approved.

The referendum is the least common method with 11 being proposed. In 2 cases the law took effect.

The initiated statute is rare and most often fails. There have been 15 proposed with only five being approved.

Committee Discussion

At the conclusion of Ms. Kuruc's presentation committee members asked questions, made suggestions, and held discussion on several issues related to this topic.

Rep. Curtin said the way the referendum has been structured is that if a group is seeking to overturn an enactment, and they submit the required number of valid signatures, then it is a yes vote to uphold the enactment and a no vote to overturn the enactment. To what extent does the General Assembly have the ability to reverse that with a yes vote meaning no and a no vote meaning yes? Ms. Kuruc replied she was unsure of this.

Committee member Wagoner stated the citizen initiated constitutional amendment process is the same as for a referendum except the Attorney General certifies the signatures instead of the Secretary of State. He asked why this was different. Ms. Kuruc clarified that the actual verification is done at the county boards of elections, and noted that the petition filing process is statutory; the Secretary of State cannot change it.

Committee member Abaray asked if it is possible to change the requirement that ballot issues be publicized in newspapers given the current technologies available. Ms. Kuruc replied this is a legal requirement. She also noted that to publicize the referendum issue for SB5 in the 129th General Assembly the cost was over \$2.1 million for publication in newspapers.

Committee member Asher suggested that perhaps the ballot language and explanation could be mailed with the absentee ballot application, and asked if there had been any discussion in the Secretary of State's office about doing that. Ms. Kuruc replied she wasn't aware but would ask.

Ms. Abaray observed that the Constitution requires publication in this particular manner, so unless the Constitution is changed, using technology or US postal mailings would not be permitted. She asked if there were any statistics available as to the effectiveness of the current publication requirement. Ms. Kuruc said the Secretary of State has some data available.

Committee member Readler commented it seems that most of the initiated amendments are from the General Assembly, not citizens. Rep. Curtin explained the reason may be that citizens are more interested in the high-profile provisions.

Rep. Curtin suggested that Ms. Kuruc's ask the Secretary of State if the Secretary has recommendations for this Commission on areas where the ballot board has failed to optimize since the 1970s, when the Ohio Constitutional Revision Commission recommendations created the ballot board. What have we learned from history? Are there lessons on how we can further guard against gamesmanship in how we present issues to the public? Is there a way for the Secretary of State to give us recommendations based on the history of the ballot board: lessons learned or suggestions for improvements? How can we better present neutral language to the voters?

Steve Steinglass, Policy Advisor to the Commission, commented that this committee might want to take a look at the Secretary of State's timeline to see if there are any issues or problems in the current order of events. He said it has been argued there is some issue with timing (see McTigue and Thompson testimony from October 9, 2014) and we could ask the Secretary of State to comment. If timing is a determinant, we can request more information from Mr. McTigue. Prof. Steinglass stated that gathering petitions and publicizing information should be modernized.

Adjournment:

With no further business, the committee adjourned at 3:30 p.m.

Attachments:

- Notice
- Agenda
- Roll call sheet
- Kuruc remarks
- Kuruc materials

Approval:

These minutes of the December 11, 2014 meeting of the Constitutional Revisions and Updating Committee were approved at the February 12, 2015 meeting of the committee.



Dennis P. Mulvihill, Chair



Charles F. Kurfess, Vice Chair