



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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## Constitutional Revision and Updating Committee

Dennis P. Mulvihill, Chair  
Charles F. Kurfess, Vice-chair

October 13, 2016

Ohio Statehouse  
Room 017

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

Chair        Mr. Dennis Mulvihill  
Vice-chair  Mr. Charles Kurfess  
              Ms. Janet Abaray  
              Mr. Roger Beckett  
              Rep. Robert Cupp  
              Se. Kris Jordan  
              Dr. Larry Macon  
              Mr. Chad Readler  
              Sen. Tom Sawyer  
              Rep. Emilia Sykes  
              Mr. Mark Wagoner

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**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**  
**CONSTITUTIONAL REVISION AND UPDATING COMMITTEE**

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**THURSDAY, OCTOBER 13, 2016**  
**10:00 A.M.**  
**OHIO STATEHOUSE ROOM 017**

**AGENDA**

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
  - Meeting of May 12, 2016  
*[Draft Minutes – attached]*
- IV. Reports and Recommendations
  - None scheduled
- V. Presentations
  - None scheduled
- VI. Committee Discussion
  - Article II, Sections 1b through 1g – Constitutional initiative, Statutory Initiative, and the Referendum

The chair will lead a continuation of the committee’s working session from its May 12, 2016 meeting regarding draft language to amend the provisions on the constitutional initiative, the statutory initiative, and the referendum.

*[Article II, Section 1 (Legislative Power) and Sections 1a through 1g  
(Constitutional Initiative, Statutory Initiative, and Referendum) – attached]*

VII. Next Steps

- The chair will lead discussion regarding the next steps the committee wishes to take in preparation for upcoming meetings.

*[Planning Worksheet – attached]*

VIII. Old Business

IX. New Business

X. Public Comment

XI. Adjourn



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES OF THE CONSTITUTIONAL REVISION AND UPDATING COMMITTEE

FOR THE MEETING HELD  
THURSDAY, MAY 12, 2016

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

Chair Dennis Mulvihill called the meeting of the Constitutional Revision and Updating Committee to order at 11:04 a.m.

#### **Members Present:**

A quorum was present with Chair Mulvihill, Vice-chair Kurfess, and committee members Abaray, Beckett, Cupp, Jordan, Readler, Sawyer, and Sykes in attendance.

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

The minutes of the March 10, 2016 meeting of the committee were approved.

#### **Discussion:**

Chair Mulvihill began the meeting by indicating that the committee would be continuing its review of the statutory initiative process, specifically considering draft language that was prepared by Steven C. Hollon, executive director.<sup>1</sup>

Chair Mulvihill explained that, at the last meeting, there was a request to have the Legislative Service Commission (LSC) continue to draft changes to the statutory initiative process, but that Mr. Hollon had undertaken the task of rewriting the sections in order to both incorporate the committee's suggestions and to attempt to clarify the initiative process described in Article II, Sections 1b and 1g.

Mr. Hollon then described the process by which he reviewed and edited the relevant constitutional provisions. He said the draft before the committee reflects the work of the last several months. He said current Section 1b does not contain paragraphs, so he included

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<sup>1</sup> A copy of the draft prepared by Mr. Hollon and distributed to the committee is provided as Attachment A.

paragraph lettering for ease of use. He noted that his draft built on a first redraft attempt by LSC.<sup>2</sup> Mr. Hollon then described the document, indicating places he suggested that language be changed or removed and explaining the rationale for doing so, adding that the changes were based on the discussions held by the committee in recent months.

Committee member Janet Abaray asked about the aspect of the provision that indicates the proposed statute would automatically go on the ballot unless it is withdrawn, wondering whether an alternative would be to have the sponsors be required to elect if they want it to proceed to the ballot.

Mr. Hollon answered that paragraph (C) of the draft amendment authorizes the General Assembly to provide a procedure for withdrawing the proposed initiated statute when it states that the proposed law shall be submitted to the electors at the next general election “unless the electors filing the petition withdraw it in the manner provided by law.”

Ms. Abaray suggested a different approach might be to phrase it in the affirmative, as in the petition sponsors would have to affirmatively request that the issue go to the ballot, rather than that it would automatically go to the ballot unless they withdraw it. She also asked about language describing both the petition filers and the voters as “electors.” Mr. Hollon explained that the draft maintains some of the ambiguity of the original section, and that this could be refined in a future draft.

Representative Robert Cupp followed up on the issue of the language used to identify the petition circulators, indicating that the constitution is somewhat unclear in defining those persons or groups. Mr. Hollon agreed there is room for greater clarity, and that he is not sure how the language in the constitution tracks with the words used in the related statutes.

Mr. Steinglass commented that a statute permits the committee named in the initial petition to withdraw a proposed amendment from the ballot, a procedure that is analogous what is suggested by the constitutional language. He added the proposed revision makes an explicit constitutional foundation for that process. He said he does not think the word “electors” should mean two different things, but the statute says “committee” and “sponsors,” two words that are not used in the constitution. He said the proposal could state “unless the petition is withdrawn in the manner provided by law,” a change that would avoid duplicative use of the word “elector” and would relate back to the existing statute, R.C. 3519.08(A). He said this option would remove confusion down the road and would be consistent with what happens now. He noted this change would not alleviate Ms. Abaray’s concern, but the proposal says go forward unless the committee pulls it back.

Ms. Abaray asked whether it also could be stated that there be some disclosure of who the sponsor is, to delegate to the legislature to set out the standards, so that the public would know who behind the petition.

Senator Tom Sawyer clarified such an addition would indicate who actually speaks for the sponsors.

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<sup>2</sup> A copy of the LSC Draft referenced in these Minutes is provided as Attachment B.

Mr. Steinglass said the identity of the members of the proponent committee are available online through the attorney general's office, but providing more information could be accommodated through facilitating legislation.

Chair Mulvihill said he would like to avoid making the constitutional language too detailed, and does not want to include steps that are the province of the General Assembly to determine.

Ms. Abaray suggested putting in language that specifically indicates the General Assembly will adopt standards, wondering if that language is not added would the legislature be prohibited from doing so.

Mr. Hollon said the General Assembly has the authority to fill in any piece that it likes, so long as it is not in contravention of the constitutional directive.

Mr. Steinglass said these proposed requirements would apply with equal force to the constitutional initiative, as well as the referendum, suggesting the language might be better placed in a more generic provision so that it would be clear it relates to all citizen-initiated acts.

Chair Mulvihill suggested the appropriate place for the language might be in Section 1b(A), but that he is not sure there have been problems historically so it may not need to be in the constitution.

Chair Mulvihill turned to the question of the use of the words "regular election" and "general election," asking the difference. Committee member Roger Beckett answered that, if the goal is to encourage the statutory route, one way to do that on the constitutional side is to say that amendments have to be approved at a general election in an even year when there is greater turnout. He added, however, that leaving open the possibility of raising the issue at a "regular election" seems reasonable.

Mr. Hollon asked how the current structure works. He said if the electors have to submit not less than ten days before session, then the General Assembly has four months. He added, this means that, calculating four months from January 15, the date would be May 15, wondering when would be the next regular election after May 15. He said, if the primary is on June 6, he supposes that is when the issue would go on the ballot. He said he tried to avoid the 85 days, all-days calculations, and tried to use dates certain. He noted the General Assembly typically will finish work near the end of May, or, in budget year, at the end of June. He said that is the hard part, what is meant by "regular election," and when that might occur.

Commenting on the 120 day requirement, Mr. Beckett asked whether the provision instead could avoid giving a time frame because it would be affected by the legislative calendar.

Chair Mulvihill said the language might provide "either or."

Rep. Cupp said because a General Assembly session is two years in length, a proponent would be limited to filing once every two years.

Mr. Hollon directed attention to Article II, Section 8, which references sessions of the General Assembly. He said that provision provides that the regular session commences in January of odd number years, and “the second regular session on the same date of the following year.” He said that provision causes confusion as to what the phrase “regular session” means.

Chair Mulvihill noted that no one has been concerned about that language, and witnesses have not commented on it.

Mr. Steinglass agreed, saying the focus of concern was that there was not enough time to gather signatures. He said, when it is a General Assembly initiated amendment, it can be presented at a general primary or special election, but initiated statutes may only be presented to voters in the fall.

Mr. Hollon noted the language currently reads “regular or general.” Chair Mulvihill noted the problem is how to define “regular election.”

Mr. Steinglass said the pattern was that initiatives would be placed on the ballot only in the fall.

Chair Mulvihill said the concern is that it does not encourage use of the statutory route if the election is 18 months away. So, he said, it would be better to use the general election.

Mr. Steinglass said the same problem arises with regard to the referendum and should be considered when the committee reviews the referendum provision.

Sen. Sawyer asked whether there is any idea of the definition of “regular election” at the time this provision was enacted.

Mr. Hollon said he is not sure the phrase “general election” is defined in the constitution. He said there is a provision in Article XVII about elections, but there is nothing in the constitution that says the November election is the general election.

Mr. Steinglass noted the phrase “general election” generally has been viewed as the November election.

Sen. Sawyer said it is the term regular election that the committee is unsure about.

Mr. Steinglass agreed this is a question that would be researched. Mr. Hollon said other states do say the general election is the first Tuesday after the first Monday in November. He made a note to raise the question with the Bill of Rights and Voting Committee.

Mr. Kurfess said the practice had always been that the General Assembly meets in odd numbered years. He said he can contemplate an issue being supported by several different interest groups and then, when the legislature acts, the groups have to decide whether to withdraw. He suggested that the provision read “when a majority of the electors” who are circulating petitions decide to withdraw, because some may not agree about whether to withdraw. He also said it might be helpful to address what happens in a close election, explaining that, 30 days after an

election, the secretary of state has to certify the results, and it is conceivable there might be an election so close that there is a recount. He said certification by the secretary of state should be the trigger, rather than the election result.

Senator Kris Jordan commented regarding paragraph (E) of proposed new Section 1b, saying if conflicting statutory initiatives are proposed, the one with the highest number of votes could be designated as the adopted initiative. He noted that, in regard to constitutional initiatives, there was recent concern about the outcome of the fall 2015 election, in which issues legalizing marijuana and prohibiting monopolies in the constitution were viewed as conflicting. He said there had been opinions offered that, if both issues passed, the antimonopoly provision would take effect immediately. He asked what would happen if this situation arose in the context of statutory initiatives, and whether an emergency clause could be included in any revision to the statutory initiative procedure.

Mr. Steinglass said he would research and report back on that question. He said, with regard to the competing issues on the fall 2015 ballot, the secretary of state opined that the first effective amendment would trump the second one regardless of the votes, an opinion Mr. Steinglass said is debatable. But, he said, it would be better to propose an amendment that identifies the potential problems and proposes solutions.

Chair Mulvihill suggested that the issues raised by Ms. Abaray and Sen. Jordan need to be explored more fully and possibly included in a revision. Mr. Steinglass commented that the related statute says “a majority of the committee.” He said his sense is that the legislative solution is clean and neat.

Chair Mulvihill wondered if an easy solution would be to say the provision that is adopted is the one that gets the greater number of votes. Mr. Steinglass said that is the current resolution of the conflict.

Ms. Abaray said Section 1b(A) says the electors may file with the secretary of state, suggesting that the secretary of state has some kind of form; follow what the secretary of state does. Mr. Hollon directed the committee to the beginning of Section 1b, noting language added by LSC that states that the electors may file with the secretary of state, a term that doesn’t exist in current provision. He said he is not wedded to that language, which could be revised to cover Ms. Abaray’s concern.

Mr. Kurfess commented that there is nothing wrong with the legislature having to adjust its schedule to accommodate a constitutional provision. He said, when the committee started this discussion there was the suggestion that constitutional amendments be subjected to the same kind of legislative attention that is given to initiated statutes, suggesting this is a topic the committee could discuss.

Rep. Cupp noted the current mechanism to trigger going to the voters is filing the supplementary petition, but with this version, that has been changed to automatically going to the voters unless it is withdrawn. He said it might be a good idea to use an affirmative action to go forward to the voters as opposed to having a withdrawal. For one thing, the sponsors of the amendment might

get tied up in lawsuits if there is a disagreement, so a requirement that they affirmatively go to the ballot might be a good idea. He asked if the language meant that, if the initiative is adopted, then could there not be another initiative that would amend the one approved by the voters? He wondered if the committee means to say that the only way to amend is by an act of the General Assembly.

Chair Mulvihill clarified that the intent was to prevent tampering by the General Assembly for a certain period of time. He said, it is a safe harbor provision, meaning if people pass a law, currently, the General Assembly could change it the next day. So, he said, the idea was to encourage the statutory route.

Rep. Cupp said it could be necessary to add a reference to the General Assembly one more time in that sentence.

Mr. Steinglass said the language opens up the possibility that another initiated statute could not amend the first one unless there is expressed a limitation.

Mr. Hollon then proposed the following language:

A proposed law approved by the electors shall not be amended or repealed by the general assembly for a period of three years after it takes effect, unless by a vote of two-thirds of the members elected to each branch of the general assembly.

Committee members expressed that this was an acceptable option for addressing the problem.

Committee member Chad Readler commented regarding Section 1b(H), asking if anyone could provide testimony indicating whether the time period provided is sufficient to encourage the statutory route. He said it would be important to know if the safe harbor provides enough time.

Chair Mulvihill said the committee had discussed that, after it is satisfied with the rewrite, opinions could be solicited from interested parties such as Maurice Thompson and Don McTigue, who could indicate whether the revision does what the committee intended.

Mr. Steinglass directed the committee to previous memoranda on the topic, noting that other states have safe harbor and anti-tampering provisions. He said past presenters indicated the idea of safe harbors but did not suggest a certain amount of time.

Mr. Hollon said he understood the committee's instructions to be they wanted a three-year safe harbor, but said he does not recall testimony suggesting that three years is better than four years or five years.

Ms. Abaray asked whether the committee needs to explicitly say that nothing prevents judicial review. Mr. Steinglass and Mr. Hollon noted that Section 1g provides for judicial review.

Mr. Hollon asked why there is a requirement that the petition has to be filed ten days before the commencement of the General Assembly. Mr. Steinglass said it could be filed earlier, but he

assumes the ten-day requirement is to accommodate the additional steps, including the need for a supplementary petition.

Rep. Cupp noted that the time was to allow for printing, with Sen. Sawyer agreeing.

Mr. Hollon wondered if that that time period still made sense to the committee.

Ms. Abaray said Section 1g talks about whether the petition is challenged on the basis of its signatures. She asked whether the committee needs to indicate it does not undercut the court's jurisdiction.

Mr. Steinglass said, regarding the original exclusive jurisdiction in Section 1g, there is an additional question about whether an original action can be filed, allowing the litigant to go straight to the Ohio Supreme Court. He said it may make sense to look at the different provisions related to original exclusive jurisdiction.

Ms. Abaray said she does not want there to be an implication that a court cannot review an initiated statute for three years. Chair Mulvihill said he does not read the proposed revision that way.

Rep. Cupp said the challenge would be raised under the constitution as this would be a statute. He added the court, at least on city ordinances and those kinds of constitutional challenges generally refrains from ruling on the constitutional grounds if the matter can be resolved on other grounds. So, he said, the court will not rule on the question until the voters decide the issue one way or another.

Mr. Readler asked, regarding Section 1g, about the restriction on the governor's veto, wondering if that ties the governor's hands.

Sen. Sawyer pointed out that the governor has a period of time in which to veto, and cannot just veto anytime.

Mr. Readler explained that, if the initiated statute addresses an issue, and five years later the General Assembly wants to change it, then the provision prevents that veto.

Rep. Cupp clarified that, if the legislature changes the provision at the end of the safe harbor period, it would fall back to the normal legislative process. Mr. Hollon noted that the current language regarding this procedure is found in Section 1b. He said he would continue to work on refining the language in both Sections 1b and 1g, as well as looking into the issues raised by the committee.

### **Adjournment:**

With no further business to come before the committee, the meeting adjourned at 12:13 p.m.

**Approval:**

The minutes of the May 12, 2016 meeting of the Constitutional Revision and Updating Committee were approved at the October 13, 2016 meeting of the committee.

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Dennis P. Mulvihill, Chair

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Charles F. Kurfess, Vice-chair

**ARTICLE II****Section 1b**

(A) At any time, not less than ten days before the commencement of a session of the general assembly, electors may file with the secretary of state a petition signed by five per cent of the electors, proposing a law, the full text of which shall be set forth in the petition. The petition shall have printed across the top: “Law Proposed by Initiative Petition First to be Submitted to the General Assembly.”

(B) The secretary of state shall verify the petition as provided in Section 1g of this article and shall transmit it to the general assembly as soon as it convenes. If the proposed law is passed by the general assembly, either as petitioned for or in an amended form, it shall be subject to the referendum.

(C) If before the first day of June following the filing of the petition, the general assembly does not pass the proposed law in the form as filed with the secretary of state, the secretary of state shall submit the proposed law to the electors at the next general election, for their approval or rejection by majority vote, unless the electors filing the petition withdraw it in the manner provided by law. Ballots shall be printed to permit an affirmative or negative vote on each measure submitted to the electors.

(D) If a proposed law is approved by the electors, it shall go into effect thirty days after the election and be the law in lieu of any amended form of the law which may have been passed by the general assembly. If a proposed law is not approved by the electors, any amended form of the

law passed by the general assembly shall go into effect thirty days after the election at which the proposed law is rejected by the electors.

(E) If conflicting proposed laws are approved at the same election by a majority of the total number of votes cast for and against the proposed laws, the one receiving the highest number of affirmative votes shall be the law.

(F) A proposed law approved by the electors shall be published by the secretary of state.

(G) A proposed law approved by the electors shall not be subject to the veto of the governor.

(H) A proposed law approved by the electors shall not be amended or repealed for a period of three years after it takes effect, unless by a vote of two-thirds of the members elected to each branch of the general assembly.

Lr\_131\_0172-1

131st General Assembly  
 Regular Session  
 2015-2016

. J. R. No.

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## A JOINT RESOLUTION

Proposing to amend Sections 1b and 1g of Article II of  
 the Constitution of the State of Ohio to modify the  
 requirements to propose a statute by initiative  
 petition.

Be it resolved by the General Assembly of the State of  
 Ohio, three-fifths of the members elected to each house  
 concurring herein, that there shall be submitted to the electors  
 of the state, in the manner prescribed by law at the general  
 election to be held on November 8, 2016, a proposal to amend  
 Sections 1b and 1g of Article II of the Constitution of the  
 State of Ohio to read as follows:

### ARTICLE II

**Section 1b.** ~~When at~~ (A) At any time, not less than ten  
 days ~~prior to~~ before the commencement of any session of the  
 general assembly, ~~there shall have been filed~~ the electors may  
file with the secretary of state a petition signed by ~~three~~ five  
 per centum of the electors ~~and verified as herein provided,~~  
 proposing a law, the full text of which shall have been set  
 forth in such petition, ~~the~~ . All such initiative petitions,  
last above described, shall have printed across the top thereof,

ATTACHMENT A

in case of proposed laws: "Law Proposed by Initiative Petition 21  
First to be Submitted to the General Assembly." 22

(B) The secretary of state shall verify the petition as 23  
provided in Section 1q of this article and shall transmit the 24  
same to the general assembly as soon as it convenes. If said 25  
proposed law shall be passed by the general assembly, either as 26  
petitioned for or in an amended form, it shall be subject to the 27  
referendum. If it shall not be passed, or if it shall be passed 28  
in an amended form, or if no action shall be taken thereon 29  
within four months from the time it is received by the general 30  
assembly, it shall be submitted by the secretary of state to the 31  
electors for their approval or rejection, ~~if such submission~~ 32  
~~shall be demanded by supplementary petition verified as herein~~ 33  
~~provided and signed by not less than three per centum of the~~ 34  
~~electors in addition to those signing the original petition,~~ 35  
~~which supplementary petition must be signed and filed with the~~ 36  
~~secretary of state within ninety days after the proposed law~~ 37  
~~shall have been rejected by the general assembly or after the~~ 38  
~~expiration of such term of four months, if no action has been~~ 39  
~~taken thereon, or after the law as passed by the general~~ 40  
~~assembly shall have been filed by the governor in the office of~~ 41  
~~the secretary of state. The proposed law shall be submitted at~~ 42  
the next regular or general election occurring subsequent to one 43  
hundred twenty-five days after the ~~supplementary petition is~~ 44  
~~filed in the form demanded by such supplementary petition, which~~ 45  
~~form shall be either as first petitioned for or with any~~ 46  
~~amendment or amendments which may have been incorporated therein~~ 47  
~~by either branch or by both branches, of proposed law shall have~~ 48  
been rejected by the general assembly or after the expiration of 49  
such term of four months, if no action has been taken thereon, 50  
or after the law as passed by the general assembly shall have 51

been filed by the governor in the office of the secretary of 52  
state. Ballots shall be so printed as to permit an affirmative 53  
or negative vote upon each measure submitted to the electors. 54

(C) If a proposed law so submitted is approved by a 55  
majority of the electors voting thereon, it shall be the law and 56  
shall go into effect as herein provided in lieu of any amended 57  
form of said law which may have been passed by the general 58  
assembly, and such amended law passed by the general assembly 59  
shall not go into effect until and unless the law proposed by 60  
~~supplementary the~~ petition shall have been rejected by the 61  
electors. ~~All such initiative petitions, last above described,~~ 62  
~~shall have printed across the top thereof, in case of proposed~~ 63  
~~laws: "Law Proposed by Initiative Petition First to be Submitted~~ 64  
~~to the General Assembly."~~ Ballots shall be so printed as to 65  
~~permit an affirmative or negative vote upon each measure~~ 66  
~~submitted to the electors.~~ Any proposed law or amendment to the 67  
constitution submitted to the electors as provided in 1a and 1b, 68  
if approved by a majority of the electors voting thereon, shall 69  
take effect thirty days after the election at which it was 70  
approved and shall be published by the secretary of state. 71

(D) If conflicting proposed laws or conflicting proposed 72  
amendments to the constitution shall be approved at the same 73  
election by a majority of the total number of votes cast for and 74  
against the same, the one receiving the highest number of 75  
affirmative votes shall be the law, or in the case of amendments 76  
to the constitution shall be the amendment to the constitution. 77

(E) No law proposed by initiative petition and approved by 78  
the electors shall be subject to the veto of the governor. For a 79  
period of three years after a law proposed by initiative 80  
petition is approved by the voters, the general assembly shall 81  
not amend or repeal that law except by a vote of two-thirds of 82

the members elected to each branch of the general assembly. 83

**Section 1g.** Any initiative, ~~supplementary,~~ or referendum 84  
petition may be presented in separate parts but each part shall 85  
contain a full and correct copy of the title, and text of the 86  
law, section or item thereof sought to be referred, or the 87  
proposed law or proposed amendment to the constitution. Each 88  
signer of any initiative, ~~supplementary,~~ or referendum petition 89  
must be an elector of the state and shall place on such petition 90  
after ~~his~~ the signer's name the date of signing and ~~his~~ the 91  
signer's place of residence. A signer residing outside of a 92  
municipality shall state the county and the rural route number, 93  
post office address, or township of his residence. A resident of 94  
a municipality shall state the street and number, if any, of ~~his~~ 95  
the signer's residence and the name of the municipality or post 96  
office address. The names of all signers to such petitions shall 97  
be written in ink, each signer for ~~himself,~~ the signer's self. To 98  
each part of such petition shall be attached the statement of 99  
the circulator, as may be required by law, that ~~he~~ the 100  
circulator witnessed the affixing of every signature. The 101  
secretary of state shall determine the sufficiency of the 102  
signatures not later than one hundred five days before the 103  
election. 104

The Ohio supreme court shall have original, exclusive 105  
jurisdiction over all challenges made to petitions and 106  
signatures upon such petitions under this section. Any challenge 107  
to a petition or signature on a petition shall be filed not 108  
later than ninety-five days before the day of the election. The 109  
court shall hear and rule on any challenges made to petitions 110  
and signatures not later than eighty-five days before the 111  
election. If no ruling determining the petition or signatures to 112  
be insufficient is issued at least eighty-five days before the 113

election, the petition and signatures upon such petitions shall 114  
be presumed to be in all respects sufficient. 115

If the petitions or signatures are determined to be 116  
insufficient, ten additional days shall be allowed for the 117  
filing of additional signatures to such petition. If additional 118  
signatures are filed, the secretary of state shall determine the 119  
sufficiency of those additional signatures not later than sixty- 120  
five days before the election. Any challenge to the additional 121  
signatures shall be filed not later than fifty-five days before 122  
the day of the election. The court shall hear and rule on any 123  
challenges made to the additional signatures not later than 124  
forty-five days before the election. If no ruling determining 125  
the additional signatures to be insufficient is issued at least 126  
forty-five days before the election, the petition and signatures 127  
shall be presumed to be in all respects sufficient. 128

No law or amendment to the constitution submitted to the 129  
electors by initiative ~~and supplementary~~ petition and receiving 130  
an affirmative majority of the votes cast thereon, shall be held 131  
unconstitutional or void on account of the insufficiency of the 132  
petitions by which such submission of the same was procured; nor 133  
shall the rejection of any law submitted by referendum petition 134  
be held invalid for such insufficiency. Upon all initiative, ~~and~~ 135  
~~supplementary,~~ and referendum petitions provided for in any of 136  
the sections of this article, it shall be necessary to file from 137  
each of one-half of the counties of the state, petitions bearing 138  
the signatures of not less than one-half of the designated 139  
percentage of the electors of such county. A true copy of all 140  
laws or proposed laws or proposed amendments to the 141  
constitution, together with an argument or explanation, or both, 142  
for, and also an argument or explanation, or both, against the 143  
same, shall be prepared. The person or persons who prepare the 144

argument or explanation, or both, against any law, section, or 145  
 item, submitted to the electors by referendum petition, may be 146  
 named in such petition and the persons who prepare the argument 147  
 or explanation, or both, for any proposed law or proposed 148  
 amendment to the constitution may be named in the petition 149  
 proposing the same. The person or persons who prepare the 150  
 argument or explanation, or both, for the law, section, or item, 151  
 submitted to the electors by referendum petition, or against any 152  
 proposed law submitted by ~~supplementary~~ initiative petition, 153  
 shall be named by the general assembly, if in session, and if 154  
 not in session then by the governor. The law, or proposed law, 155  
 or proposed amendment to the constitution, together with the 156  
 arguments and explanations, not exceeding a total of three 157  
 hundred words for each, and also the arguments and explanations, 158  
 not exceeding a total of three hundred words against each, shall 159  
 be published once a week for three consecutive weeks preceding 160  
 the election, in at least one newspaper of general circulation 161  
 in each county of the state, where a newspaper is published. The 162  
 secretary of state shall cause to be placed upon the ballots, 163  
 the ballot language for any such law, or proposed law, or 164  
 proposed amendment to the constitution, to be submitted. The 165  
 ballot language shall be prescribed by the Ohio ballot board in 166  
 the same manner, and subject to the same terms and conditions, 167  
 as apply to issues submitted by the general assembly pursuant to 168  
 Section 1 of Article XVI of this constitution. The ballot 169  
 language shall be so prescribed and the secretary of state shall 170  
 cause the ballots so to be printed as to permit an affirmative 171  
 or negative vote upon each law, section of law, or item in a law 172  
 appropriating money, or proposed law, or proposed amendment to 173  
 the constitution. The style of all laws submitted by initiative 174  
~~and supplementary~~ petition shall be: "Be it Enacted by the 175  
 People of the State of Ohio," and of all constitutional 176

amendments: "Be it Resolved by the People of the State of Ohio." 177  
 The basis upon which the required number of petitioners in any 178  
 case shall be determined shall be the total number of votes cast 179  
 for the office of governor at the last preceding election 180  
 therefor. The foregoing provisions of this section shall be 181  
 self-executing, except as herein otherwise provided. Laws may be 182  
 passed to facilitate their operation, but in no way limiting or 183  
 restricting either such provisions or the powers herein 184  
 reserved. 185

#### EFFECTIVE DATE AND REPEAL 186

If adopted by a majority of the electors voting on this 187  
 proposal, Sections 1b and 1g of Article II as amended by this 188  
 proposal take effect immediately and existing Sections 1b and 1g 189  
 of Article II of the Constitution of the State of Ohio are 190  
 repealed on that effective date. 191

#### SCHEDULE 192

The amendments to Section 1g of Article II of the Ohio 193  
 Constitution in part substitute gender neutral for gender 194  
 specific language. These gender neutralizing amendments are not 195  
 intended to make a substantive change in the Ohio Constitution. 196  
 The gender neutral language is to be construed as a restatement 197  
 of, and substituted in a continuing way for, the corresponding 198  
 gender specific language existing before adoption of the gender 199  
 neutralizing amendments. 200

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**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

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**CONSTITUTIONAL REVISION AND UPDATING COMMITTEE**

**OHIO CONSTITUTION  
ARTICLE II, SECTIONS 1 THROUGH 1g**

**Section 1 – In Whom Power Vested**

The legislative power of the state shall be vested in a general assembly consisting of a senate and house of representatives but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly, except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitations expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.

1     **Section 1a - Initiative and Referendum to Amend Constitution**

2     The first aforestated power reserved by the people is designated the  
3     initiative, and the signatures of ten per centum of the electors shall be  
4     required upon a petition to propose an amendment to the constitution.

5     When a petition signed by the aforesaid required number of electors,  
6     shall have been filed with the secretary of state, and verified as herein  
7     provided, proposing an amendment to the constitution, the full text of  
8     which shall have been set forth in such petition, the secretary of state  
9     shall submit for the approval or rejection of the electors, the proposed  
10    amendment, in the manner hereinafter provided, at the next succeeding  
11    regular or general election in any year occurring subsequent to one  
12    hundred twenty-five days after the filing of such petition. The initiative  
13    petitions, above described, shall have printed across the top thereof:  
14    "Amendment to the Constitution Proposed by Initiative Petition to be  
15    Submitted Directly to the Electors."

16     **Section 1b – Initiative and Referendum to Enact Laws**

17     When at any time, not less than ten days prior to the commencement of  
18     any session of the general assembly, there shall have been filed with the  
19     secretary of state a petition signed by three per centum of the electors  
20     and verified as herein provided, proposing a law, the full text of which  
21     shall have been set forth in such petition, the secretary of state shall  
22     transmit the same to the general assembly as soon as it convenes. If said  
23     proposed law shall be passed by the general assembly, either as  
24     petitioned for or in an amended form, it shall be subject to the  
25     referendum. If it shall not be passed, or if it shall be passed in an  
26     amended form, or if no action shall be taken thereon within four  
27     months from the time it is received by the general assembly, it shall be  
28     submitted by the secretary of state to the electors for their approval or  
29     rejection, if such submission shall be demanded by supplementary  
30     petition verified as herein provided and signed by not less than three  
31     per centum of the electors in addition to those signing the original  
32     petition, which supplementary petition must be signed and filed with

33 the secretary of state within ninety days after the proposed law shall  
34 have been rejected by the general assembly or after the expiration of  
35 such term of four months, if no action has been taken thereon, or after  
36 the law as passed by the general assembly shall have been filed by the  
37 governor in the office of the secretary of state. The proposed law shall  
38 be submitted at the next regular or general election occurring  
39 subsequent to one hundred twenty-five days after the supplementary  
40 petition is filed in the form demanded by such supplementary petition,  
41 which form shall be either as first petitioned for or with any amendment  
42 or amendments which may have been incorporated therein by either  
43 branch or by both branches, of the general assembly. If a proposed law  
44 so submitted is approved by a majority of the electors voting thereon, it  
45 shall be the law and shall go into effect as herein provided in lieu of any  
46 amended form of said law which may have been passed by the general  
47 assembly, and such amended law passed by the general assembly shall  
48 not go into effect until and unless the law proposed by supplementary  
49 petition shall have been rejected by the electors. All such initiative

50 petitions, last above described, shall have printed across the top thereof,  
51 in case of proposed laws: "Law Proposed by Initiative Petition First to  
52 be Submitted to the General Assembly." Ballots shall be so printed as to  
53 permit an affirmative or negative vote upon each measure submitted to  
54 the electors. Any proposed law or amendment to the constitution  
55 submitted to the electors as provided in 1a and 1b, if approved by a  
56 majority of the electors voting thereon, shall take effect thirty days after  
57 the election at which it was approved and shall be published by the  
58 secretary of state. If conflicting proposed laws or conflicting proposed  
59 amendments to the constitution shall be approved at the same election  
60 by a majority of the total number of votes cast for and against the same,  
61 the one receiving the highest number of affirmative votes shall be the  
62 law, or in the case of amendments to the constitution shall be the  
63 amendment to the constitution. No law proposed by initiative petition  
64 and approved by the electors shall be subject to the veto of the  
65 governor.

66 **Section 1c – Referendum to Challenge Laws Enacted by GA**

67 The second aforestated power reserved by the people is designated the  
68 referendum, and the signatures of six per centum of the electors shall be  
69 required upon a petition to order the submission to the electors of the  
70 state for their approval or rejection, of any law, section of any law or  
71 any item in any law appropriating money passed by the general  
72 assembly. No law passed by the general assembly shall go into effect  
73 until ninety days after it shall have been filed by the governor in the  
74 office of the secretary of state, except as herein provided. When a  
75 petition, signed by six per centum of the electors of the state and  
76 verified as herein provided, shall have been filed with the secretary of  
77 state within ninety days after any law shall have been filed by the  
78 governor in the office of the secretary of state, ordering that such law,  
79 section of such law or any item in such law appropriating money be  
80 submitted to the electors of the state for their approval or rejection, the  
81 secretary of state shall submit to the electors of the state for their  
82 approval or rejection such law, section or item, in the manner herein

83 provided, at the next succeeding regular or general election in any year  
84 occurring subsequent to one hundred twenty-five days after the filing of  
85 such petition, and no such law, section or item shall go into effect until  
86 and unless approved by a majority of those voting upon the same. If,  
87 however, a referendum petition is filed against any such section or item,  
88 the remainder of the law shall not thereby be prevented or delayed from  
89 going into effect.

90 **Section 1d – Emergency Laws Not Subject to Referendum**

91 Laws providing for tax levies, appropriations for the current expenses  
92 of the state government and state institutions, and emergency laws  
93 necessary for the immediate preservation of the public peace, health or  
94 safety, shall go into immediate effect. Such emergency laws upon a yea  
95 and nay vote must receive the vote of two-thirds of all the members  
96 elected to each branch of the general assembly, and the reasons for such  
97 necessity shall be set forth in one section of the law, which section shall  
98 be passed only upon a yea and nay vote, upon a separate roll call

99 thereon. The laws mentioned in this section shall not be subject to the  
100 referendum.

101 **Section 1e – Powers; Limitation of Use**

102 (A) The powers defined herein as the "initiative" and "referendum" shall  
103 not be used to pass a law authorizing any classification of property for  
104 the purpose of levying different rates of taxation thereon or of  
105 authorizing the levy of any single tax on land or land values or land  
106 sites at a higher rate or by a different rule than is or may be applied to  
107 improvements thereon or to personal property.

108 (B)(1) Restraint of trade or commerce being injurious to this state and its  
109 citizens, the power of the initiative shall not be used to pass an  
110 amendment to this constitution that would grant or create a monopoly,  
111 oligopoly, or cartel, specify or determine a tax rate, or confer a  
112 commercial interest, commercial right, or commercial license to any  
113 person, nonpublic entity, or group of persons or nonpublic entities, or  
114 any combination thereof, however organized, that is not then available  
115 to other similarly situated persons or nonpublic entities.

116 (2) If a constitutional amendment proposed by initiative petition is  
117 certified to appear on the ballot and, in the opinion of the Ohio ballot  
118 board, the amendment would conflict with division (B)(1) of this section,  
119 the board shall prescribe two separate questions to appear on the ballot,  
120 as follows:

121 (a) The first question shall be as follows:

122 "Shall the petitioner, in violation of division (B)(1) of Section 1e of Article  
123 II of the Ohio Constitution, be authorized to initiate a constitutional  
124 amendment that grants or creates a monopoly, oligopoly, or cartel,  
125 specifies or determines a tax rate, or confers a commercial interest,  
126 commercial right, or commercial license that is not available to other  
127 similarly situated persons?"

128 (b) The second question shall describe the proposed constitutional  
129 amendment.

130 (c) If both questions are approved or affirmed by a majority of the  
131 electors voting on them, then the constitutional amendment shall take  
132 effect. If only one question is approved or affirmed by a majority of the

133 electors voting on it, then the constitutional amendment shall not take  
134 effect.

135 (3) If, at the general election held on November 3, 2015, the electors  
136 approve a proposed constitutional amendment that conflicts with  
137 division (B)(1) of this section with regard to the creation of a monopoly,  
138 oligopoly, or cartel for the sale, distribution, or other use of any federal  
139 Schedule I controlled substance, then notwithstanding any severability  
140 provision to the contrary, that entire proposed constitutional  
141 amendment shall not take effect. If, at any subsequent election, the  
142 electors approve a proposed constitutional amendment that was  
143 proposed by an initiative petition, that conflicts with division (B)(1) of  
144 this section, and that was not subject to the procedure described in  
145 division (B)(2) of this section, then notwithstanding any severability  
146 provision to the contrary, that entire proposed constitutional  
147 amendment shall not take effect.

148 (C) The supreme court of Ohio shall have original, exclusive jurisdiction  
149 in any action that relates to this section.

150     **Section 1f – Power of Municipalities**

151     The initiative and referendum powers are hereby reserved to the people  
152     of each municipality on all questions which such municipalities may  
153     now or hereafter be authorized by law to control by legislative action;  
154     such powers shall be exercised in the manner now or hereafter provided  
155     by law.

156     **Section 1g – Petition Requirements and Preparation; Ballot Board**

157     Any initiative, supplementary, or referendum petition may be  
158     presented in separate parts but each part shall contain a full and correct  
159     copy of the title, and text of the law, section or item thereof sought to be  
160     referred, or the proposed law or proposed amendment to the  
161     constitution. Each signer of any initiative, supplementary, or  
162     referendum petition must be an elector of the state and shall place on  
163     such petition after his name the date of signing and his place of  
164     residence. A signer residing outside of a municipality shall state the  
165     county and the rural route number, post office address, or township of  
166     his residence. A resident of a municipality shall state the street and

167 number, if any, of his residence and the name of the municipality or  
168 post office address. The names of all signers to such petitions shall be  
169 written in ink, each signer for himself. To each part of such petition  
170 shall be attached the statement of the circulator, as may be required by  
171 law, that he witnessed the affixing of every signature. The secretary of  
172 state shall determine the sufficiency of the signatures not later than one  
173 hundred five days before the election.

174 The Ohio supreme court shall have original, exclusive jurisdiction over  
175 all challenges made to petitions and signatures upon such petitions  
176 under this section. Any challenge to a petition or signature on a petition  
177 shall be filed not later than ninety-five days before the day of the  
178 election. The court shall hear and rule on any challenges made to  
179 petitions and signatures not later than eighty-five days before the  
180 election. If no ruling determining the petition or signatures to be  
181 insufficient is issued at least eighty-five days before the election, the  
182 petition and signatures upon such petitions shall be presumed to be in  
183 all respects sufficient.

184 If the petitions or signatures are determined to be insufficient, ten  
185 additional days shall be allowed for the filing of additional signatures to  
186 such petition. If additional signatures are filed, the secretary of state  
187 shall determine the sufficiency of those additional signatures not later  
188 than sixty-five days before the election. Any challenge to the additional  
189 signatures shall be filed not later than fifty-five days before the day of  
190 the election. The court shall hear and rule on any challenges made to the  
191 additional signatures not later than forty-five days before the election. If  
192 no ruling determining the additional signatures to be insufficient is  
193 issued at least forty-five days before the election, the petition and  
194 signatures shall be presumed to be in all respects sufficient.

195 No law or amendment to the constitution submitted to the electors by  
196 initiative and supplementary petition and receiving an affirmative  
197 majority of the votes cast thereon, shall be held unconstitutional or void  
198 on account of the insufficiency of the petitions by which such  
199 submission of the same was procured; nor shall the rejection of any law  
200 submitted by referendum petition be held invalid for such insufficiency.

201 Upon all initiative, supplementary, and referendum petitions provided  
202 for in any of the sections of this article, it shall be necessary to file from  
203 each of one-half of the counties of the state, petitions bearing the  
204 signatures of not less than one-half of the designated percentage of the  
205 electors of such county. A true copy of all laws or proposed laws or  
206 proposed amendments to the constitution, together with an argument  
207 or explanation, or both, for, and also an argument or explanation, or  
208 both, against the same, shall be prepared. The person or persons who  
209 prepare the argument or explanation, or both, against any law, section,  
210 or item, submitted to the electors by referendum petition, may be  
211 named in such petition and the persons who prepare the argument or  
212 explanation, or both, for any proposed law or proposed amendment to  
213 the constitution may be named in the petition proposing the same. The  
214 person or persons who prepare the argument or explanation, or both,  
215 for the law, section, or item, submitted to the electors by referendum  
216 petition, or against any proposed law submitted by supplementary  
217 petition, shall be named by the general assembly, if in session, and if not

218 in session then by the governor. The law, or proposed law, or proposed  
219 amendment to the constitution, together with the arguments and  
220 explanations, not exceeding a total of three hundred words for each,  
221 and also the arguments and explanations, not exceeding a total of three  
222 hundred words against each, shall be published once a week for three  
223 consecutive weeks preceding the election, in at least one newspaper of  
224 general circulation in each county of the state, where a newspaper is  
225 published. The secretary of state shall cause to be placed upon the  
226 ballots, the ballot language for any such law, or proposed law, or  
227 proposed amendment to the constitution, to be submitted. The ballot  
228 language shall be prescribed by the Ohio ballot board in the same  
229 manner, and subject to the same terms and conditions, as apply to  
230 issues submitted by the general assembly pursuant to Section 1 of  
231 Article XVI of this constitution. The ballot language shall be so  
232 prescribed and the secretary of state shall cause the ballots so to be  
233 printed as to permit an affirmative or negative vote upon each law,  
234 section of law, or item in a law appropriating money, or proposed law,

235 or proposed amendment to the constitution. The style of all laws  
236 submitted by initiative and supplementary petition shall be: "Be it  
237 Enacted by the People of the State of Ohio," and of all constitutional  
238 amendments: "Be it Resolved by the People of the State of Ohio." The  
239 basis upon which the required number of petitioners in any case shall  
240 be determined shall be the total number of votes cast for the office of  
241 governor at the last preceding election therefor. The foregoing  
242 provisions of this section shall be self-executing, except as herein  
243 otherwise provided. Laws may be passed to facilitate their operation,  
244 but in no way limiting or restricting either such provisions or the  
245 powers herein reserved.

## Constitutional Revision and Updating Committee

### Planning Worksheet (Through September 2016 Meetings)

#### Article II – Legislative (Select Provisions)

Sec. 1 – In whom power vested (1851, am. 1912, 1918, 1953)							
Draft Status	Committee 1 <sup>st</sup> Pres.	Committee 2 <sup>nd</sup> Pres.	Committee Approval	CC Approval	OCMC 1 <sup>st</sup> Pres.	OCMC 2 <sup>nd</sup> Pres.	OCMC Approved

Sec. 1a – Initiative and referendum to amend constitution (1912, am. 2008)							
Draft Status	Committee 1 <sup>st</sup> Pres.	Committee 2 <sup>nd</sup> Pres.	Committee Approval	CC Approval	OCMC 1 <sup>st</sup> Pres.	OCMC 2 <sup>nd</sup> Pres.	OCMC Approved

Sec. 1b – Initiative and referendum to enact laws (1912, am. 2008)							
Draft Status	Committee 1 <sup>st</sup> Pres.	Committee 2 <sup>nd</sup> Pres.	Committee Approval	CC Approval	OCMC 1 <sup>st</sup> Pres.	OCMC 2 <sup>nd</sup> Pres.	OCMC Approved

Sec. 1c – Referendum to challenge laws enacted by General Assembly (1912, am 2008)							
Draft Status	Committee 1 <sup>st</sup> Pres.	Committee 2 <sup>nd</sup> Pres.	Committee Approval	CC Approval	OCMC 1 <sup>st</sup> Pres.	OCMC 2 <sup>nd</sup> Pres.	OCMC Approved





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## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### **2016 Meeting Dates**

November 10

December 8

### **2017 Meeting Dates**

January 12

February 9

March 9

April 13

May 11

June 8

July 13

August 10

September 14

October 12

November 9

December 14