



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE CONSTITUTIONAL REVISION AND UPDATING COMMITTEE

FOR THE MEETING HELD
THURSDAY, APRIL 13, 2017

Call to Order:

Chair Dennis Mulvihill called the meeting of the Constitutional Revision and Updating Committee to order at 11:19 a.m.

Members Present:

A quorum was present with Chair Mulvihill, Vice-chair Kurfess, and committee members Abaray, Beckett, Cupp, Holmes, and Jordan.

Approval of Minutes:

The minutes of the March 9, 2017 meetings of the committee were approved.

Reports and Recommendations:

*Article II, Sections 1 through 1i, 15 and 17
(Constitutional Initiative, Statutory Initiative, and the Referendum)*

Introducing a report and recommendation for change to the initiative and referendum sections in Article II, Chair Mulvihill provided an overview of those changes. He specifically described proposed changes to the statutory initiative, including making the process more user-friendly by eliminating the supplementary petition, creating a five-year safe harbor in which initiated statutes can only be amended or repealed by the General Assembly with a two-thirds supermajority vote, and decreasing the number of signatures required to initiate a statute from six percent to five percent but requiring the signatures to be submitted at the beginning of the process. He continued that the recommended changes create constitutional authority for the initial 1,000-signature petition presently in the Ohio Revised Code for the initiative and the referendum, and creates constitutional authority for the determination by the attorney general that the summary of the initiative and referendum is “fair and truthful.”

Regarding the constitutional initiative process, Chair Mulvihill described that the recommendation is to increase the passing percentage for proposed initiated constitutional amendments from 50 percent to 55 percent and permits proposed initiated amendments to be on the general election ballot only in even-numbered years. He added that the proposed changes would apply the one amendment requirement for General Assembly-initiated constitutional amendments to initiated constitutional amendments. He said the recommendation also clarifies the dates when proposed statutory and constitutional initiatives may be submitted to the voters. Finally, he said the committee is recommending a provision that would permit the General Assembly to modernize the signature-gathering process by allowing signatures to be gathered electronically, and a provision requiring proponents to use gender-neutral language.

Chair Mulvihill then asked committee members for questions and comments regarding the report and recommendation.

Senator Kris Jordan asked if the committee is recommending a way for proponents to remove a proposed statutory change from the ballot if the General Assembly enacts related, but not identical, law. Chair Mulvihill said the recommendation is that if the General Assembly enacts law that makes changes to the proponent's initiative, the statutory initiative goes to the ballot unless the proponents decide to remove it. Senior Policy Advisor Steven H. Steinglass said that "off ramp" concept is currently in the revised code.

Committee member Janet Abaray asked whether, if the proponent wants to go forward even though the General Assembly has passed a law, the ballot board creates a new description of the law. Chair Mulvihill said that the initiative would go on the ballot as presented.

Representative Robert Cupp asked about the requirement that an initiative contain only one proposed constitutional amendment. He said he is not sure what that means. Mr. Steinglass explained that there is a one-amendment jurisprudence that looks at the relationship between the different pieces of the proposed amendment to decide if it really is one amendment.

Chair Mulvihill said the question arose whether the recommendation should be presented in separate parts, indicating that an editorial in the *Columbus Dispatch* had suggested separating the recommendations for the constitutional initiative from those for the statutory initiative. He said he does not agree because the parts are connected. Vice-chair Charles Kurfess agreed.

Chair Mulvihill said a controversial recommendation is the requirement of 55 percent passage rate and the even-year ballot requirement for constitutional initiatives. He noted statistics from the Ohio Secretary of State indicating that in an odd-numbered year there is a drop off of a million-and-a-half votes. He said one committee goal was to have more people considering the constitutional aspect than not. He said they decided it is better to have more people to consider a proposal to change the constitution.

Committee member Roger Beckett agreed it is important and appropriate to allow more people to weigh in on constitutional questions.

Speaking from the audience, Ann Henkener, director and legislative director of the League of Women Voters of Ohio, asked why the recommendation is for a one-year span for voters to submit signatures. She noted that proponents who cannot make the May 1 cutoff date would

have to wait an entire year, during which time the signatures they already obtained would grow stale. She explained that some grass roots organizations lack the funding to get all of their signatures in the time frame, but if they miss the May 1 deadline they cannot submit signatures during the one year after that. She said she does not see a public policy reason why they would not be permitted to submit those signatures after May 1.

Mr. Beckett explained the reason that the beginning date was included was the committee was trying to lay out a much clearer process and thought there ought to be a beginning date. He said he does not see a problem with her recommendation to allow signatures to be submitted after May 1. Chair Mulvihill agreed, saying the committee talked about not having a beginning date. He said he saw no objection to Ms. Henkener's suggestion. Mr. Beckett agreed, indicating the change is reasonable. There being no objection by the committee, Chair Mulvihill said that requirement would be removed.

Representative Glenn Holmes asked about the requirement that the ballot year for introducing a statutory initiative will be determined by when the petitions are submitted. Mr. Steinglass said the point of this requirement is to get the proposal in front of the General Assembly. Rep. Holmes said the General Assembly should be able to hear things when appropriate or when necessary. Mr. Steinglass said for the process to be triggered the petitions have to be submitted by February 1, which gives the General Assembly the 120 days until the last day of May to act. He added, if the General Assembly does not act the proposal goes to the ballot unless it is pulled back. So, he said, the dates are appropriate because they address a slightly different issue.

Regarding proposed Section 1b(F), Rep. Cupp asked why the date could not just be the first day of February, because the legislature acts by the first day of June. He said, if the proponent wants to submit in an even year, then the proponent would do so before February of that year. Chair Mulvihill said there may not be enough time with the built-in 120 days. Rep. Cupp suggested, and the committee agreed, that proposed Section 1b(F) could be altered to remove the requirement that the statutory initiative proponent file the petition with the secretary of state after the last day of May.

The committee also discussed Section 1b(G) and (H), specifically whether the relevant date should be the date the secretary of state transmits the petition to the General Assembly or the date the General Assembly receives it. The committee agreed that the relevant date should be the date the secretary of state transmits the materials, and suggested the word "filing" in division (H) should be changed to "transmission."

Mr. Steinglass said he would review these questions and suggestions in conjunction with the relevant time periods, and would suggest appropriate changes throughout the redraft.

Chair Mulvihill indicated the draft before the committee is labeled "9a," meaning that the committee has gone through the redrafting process more than ten times. He said what the committee is giving the Commission is a report and recommendation. He said, while the proposed language is provided, it is not binding on the Commission or on the General Assembly, which will take a fresh look regardless.

Adjournment:

With no further business to come before the committee, the meeting adjourned at 12:27 p.m.

Approval:

The minutes of the April 13, 2017 meeting of the Constitutional Revision and Updating Committee were approved at the May 11, 2017 meeting of the committee.

/s/ Dennis P. Mulvihill _____
Dennis P. Mulvihill, Chair

/s/ Charles F. Kurfess _____
Charles F. Kurfess, Vice-chair