



**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**  
**LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE**

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**THURSDAY, MAY 14, 2015**  
**11:00 A.M.**  
**OHIO STATEHOUSE ROOM 018**

**AGENDA**

I. Call to Order

II. Roll Call

III. Approval of Minutes

➤ Meeting of April 9, 2015

*[Draft Minutes – attached]*

IV. Presentation

➤ “Article II Issues”

*[Memorandum by Steven H. Steinglass titled “Article II Issues”  
dated May 7, 2015 – attached]*

Steven H. Steinglass  
Senior Policy Advisor

V. Reports and Recommendations

- Article II, Section 2 (Election and Term Limits of State Legislators)
- Additional Presentation
  - Public Comment
  - Discussion
  - **Action Item: Consideration and Adoption**

*[Report and recommendation – attached]*

VI. Committee Discussion

➤ Salary Commission

*[Sub. Senate Joint Resolution 1 – attached]*

*[Legislative Service Commission Analysis of Sub. SJR 1 – attached]*

➤ Congressional Redistricting

*[House Joint Resolution 2 – attached]*

VII. Old Business

VIII. New Business

IX. Public Comment

X. Adjourn



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD  
THURSDAY, APRIL 9, 2015

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

Chair Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 9:40 a.m.

#### **Members Present:**

A quorum was present with committee members Mills, Brooks, Asher, Coley, Curtin, Davidson Tavares, and Trafford in attendance.

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

The minutes of the March 12, 2015, meeting of the committee were approved.

#### **Presentations:**

##### *Redistricting of Congressional Districts*

*Representative Kathleen Clyde*  
*75<sup>th</sup> House District*

Representative Clyde presented House Joint Resolution 2 ("HJR 2") to the Committee. She is a co-sponsor of the resolution, along with Representative Curtin. HJR 2, which proposes to reform congressional districts. It recently was introduced in the House of Representatives.

Rep. Clyde noted that HJR 2 closely mirrors House Joint Resolution 12 ("HJR 12"), the state legislative redistricting reform proposal that passed in the 130th General Assembly. She stated that the work done by the Ohio Constitutional Modernization Commission was instrumental to the passage of HJR 12. Rep. Clyde hopes that the Legislative Branch and Executive Branch Committee, as well as the full Commission, will support and approve HJR 2.

Rep. Clyde emphasized that the passage of HJR 12 did not reform all district line drawing in Ohio because the legislature removed congressional redistricting from HJR 12 before it was passed in December 2014. Rep. Clyde expressed her concern that gerrymandering leads to a legislature that is less responsive to the will of the public.

Rep. Clyde identified the following key points of the redistricting proposal:

- 1) The proposal creates a seven-member bipartisan panel with a least two members from the minority party. The panel will be comprised of four legislative members – two of whom are members of the minority party in each chamber – the Governor, the Auditor of State, and the Secretary of State.
- 2) Two minority votes would be needed to adopt the legislative boundaries for a 10-year period.
- 3) If the panel cannot agree on legislative boundaries, the maps will need to be drawn after four years. During that time, elections could bring new members to the panel.
- 4) If the panel cannot agree a second time, the new map will go into effect for the remaining six years. However, this map must adhere to tougher standards.
- 5) The Ohio Supreme Court is given clear guidance on how to determine if the maps are drawn properly.
- 6) The panel must draw the maps in such a way that minimizes the number of splits of counties, municipalities, and contiguous townships.
- 7) The constitutional provision would explicitly state that “No General Assembly district plan shall be drawn primarily to favor or disfavor a political party.”

Finally, Rep. Clyde addressed the pending U.S. Supreme Court decision in *Arizona State Legislature v. Arizona Independent Redistricting Commission*. If the Court issues a ruling that is inconsistent with the proposal, the power to draw congressional lines will stay with the legislature. The legislature, however, also must adhere to the new rules and fairness criteria listed in HJR 2.

Rep. Curtin then stated his support for HJR 2. He discussed the increasing problem that gerrymandering presents as the state and the nation become increasingly polarized. He also spoke about the previous passage of HJR 12, the success the legislature has experienced with state redistricting reform. Rep. Curtin said a bipartisan plan worked for the General Assembly on state legislative redistricting, which he thought it was impossible and considers a miracle. He said if HJR 12 is adopted by voters, it would bring to a close four decades of partisan gerrymandering that got worse with each decade. He said he studied this subject during his time as a reporter at the *Columbus Dispatch* and he had concluded Ohio wouldn’t be able to come up with a bipartisan plan, but “we got it done,” in the General Assembly. He emphasized that congressional redistricting reform is “the last elephant left in the room.” Rep. Curtin

commented that the congressional district maps are some of the most egregious maps in the nation, and mentioned that no one has stood up to defend them. According to Rep. Curtin, none of the districts make any sense because they are not drawn to make sense, and that the district maps are “ridiculous, geographic absurdities.” He expressed his hope that reform will continue. He said, “We had tremendous showing of bipartisan agreement, we want to keep that going.”

Senator Coley responded that he would stand by the congressional maps as they are currently drawn. He also commented that the congressional districts in Ohio are not the worst in the nation, making specific reference to congressional district maps in the south. However, Sen. Coley stated that he agrees that politics should be removed from the process of drawing congressional district lines, which is why he supported state legislative redistricting reform last year.

Sen. Coley then asked whether the representatives should wait until after the Supreme Court rules on *Arizona State Legislature v. Arizona Independent Redistricting Commission* to finalize a plan for congressional redistricting.

Rep. Curtin stated that because of a secondary option built into HJR 2, it is not necessary to wait until the Arizona case is decided. Rep. Curtin said the case can only come out one of two ways: either the word “legislature” in the U.S. Constitution will be interpreted to mean the legislature, or it means the electorate and the legislature. He said because of this, if the court rules that an independent commission cannot do the job of congressional redistricting, then the task will be kept by the General Assembly. He said if the court rules it is permissible for an independent commission to play that role, having a commission is okay. According to Rep. Curtin, under the resolution, “we are covered either way.”

Rep. Clyde agreed, and reported the opinion of legal experts that were consulted in drafting the proposal. These experts indicated that the Arizona case is distinguishable from the current proposal in Ohio. Rep. Clyde said she does not believe the Arizona case will come to bear on HJR 2, but in case it does, the provision that keeps the line-drawing responsibility in the legislature would relieve that problem. Rep. Clyde added that while they were working on these plans, congressional reform was being discussed alongside it. She said that the planned redistricting commission has a legislative role because four legislative members would be on the commission. By contrast, she said the Arizona plan does not have that. She doesn’t think Arizona comes into play but just in case they included the provision allowing for legislature involvement that she has described.

Speaker Davidson asked for the approximate dates by which congressional lines would need to be drawn. Rep. Clyde responded that, while writing the proposal, they attempted to mirror the current timeline used by the General Assembly.

In his final comment, Rep. Curtin stated that the United States Supreme Court is expected to rule on *Arizona State Legislature v. Arizona Independent Redistricting Commission* in June. If that occurs, it would be possible to meet the August filing deadline that would put HJR 2 on the ballot this November. Rep. Curtin is hopeful that this timeline is possible and hopes that the Commission will keep congressional redistricting on its agenda until that time. He said the only

issue is that there is the pending Arizona case, but if the case is resolved in June, they could continue hearings and possibly act in time for the August filing deadline.

### *Term Limits*

*Tony Seegers*  
*Director of State Policy*  
*Ohio Farm Bureau Federation*

Tony Seegers, Director of State Policy for the Ohio Farm Bureau Federation (“Bureau”), testified about the Bureau’s policy regarding term limits.

First, Mr. Seegers provided an overview on the Farm Bureau’s process for developing its policies. There is a country farm bureau in each of Ohio’s 88 counties. Members of each county farm bureau recommend public policy and, if approved at the annual county bureau meeting, the policy is submitted for review by the state policy development committee and is voted on at the Ohio Farm Bureau Federation’s annual meeting. Mr. Seegers commented on the extensive policy book that is developed annually through this process.

Then, Mr. Seegers presented the Bureau’s policy on term limits. It states, “We support extending the term limit for state legislators to 12 years. We support extending the term length for a state representative from two years to four years and extending the term length for a state senator from four to six years.” Although the Ohio Farm Bureau Federation supports extending term limits from 8 to 12 years, Mr. Seegers noted that the policy does not speak to a lifetime limit of 12 years for service in the legislature.

Mr. Seegers stated that the Bureau’s policy is based on the recognition that limiting the number of years of service reduces institutional and subject-matter expertise in the legislature.

Sen. Tavares asked Mr. Seegers how the Bureau decided to recommend adding two additional years to each chamber’s term. Because of the process by which Bureau policy is drafted, Mr. Seegers stated that he could only speculate about the reasoning behind the recommendation. He noted that adding additional years to a member’s term allows the member to spend less time campaigning. Sen. Tavares asked Mr. Seegers to provide additional information about how that recommendation was reached.

Vice-chair Brooks noted nuance in the Bureau’s policy, which states that other factors, like redistricting, might impact the Bureau’s position. She then asked how redistricting might change the Bureau’s policy on term limits. Mr. Seegers was unsure of the Bureau’s position, but stated that the answer would depend on the specific redistricting proposal the legislature proposed.

Committee member Asher asked whether the Bureau had discussed staggering the terms of legislators. Mr. Seegers had no knowledge of such a discussion. He believes the Bureau would support term staggering as it currently exists.

Governor Taft asked whether the Ohio Farm Bureau Federation has taken a position on congressional redistricting. Mr. Seegers stated that the Bureau does have a policy on redistricting. However, Mr. Seegers did not have that policy with him during the Committee meeting. He agreed to forward the Bureau's redistricting policy to Director Hollon.

Chair Mills asked whether the Bureau's policy is in favor of extending term limits from 8 to 12 years. Mr. Seegers confirmed that such an extension is the key point of the policy.

### **Committee Discussion:**

#### *Term Limits*

Chair Mills opened the floor for further discussion of Article II, Section 2, the provision on term limits. At the last meeting, the Commission staff presented two versions of a report and recommendation that would extend term limits from eight to 12 years.

Rep. Curtin reported the position of the House Minority Caucus on the report and recommendation. He stated that he brought both versions to the caucus and asked for their feedback. Approximately 25 members were present at the caucus meeting, and Rep. Curtin said that six of them chose to provide feedback. Of those six, five members were not in favor of either proposal. These members believe redistricting is an important issue that may not pass if it is paired with a controversial issue, like term limit expansion. Rep. Curtin emphasized that these caucus members are not opposed to extending term limits. However, they are concerned about the timing of a term limit proposal on the ballot.

Sen. Tavares reported a similar position expressed by the Senate Minority Caucus. She commented that her caucus also believes redistricting should be on the ballot before term limit expansion. Sen. Tavares then presented an amendment that she prepared for either option of the report and recommendation. The amendment would delay putting the term limit proposal on the ballot until 2016 or later.

Dr. Asher made a motion to adopt both options of the report and recommendation, explaining that adopting both options would have the effect of bringing the issue before the full Commission. This motion was seconded by Vice-Chair Brooks.

Sen. Tavares then made a motion to amend the reports and recommendations to reflect that the committee recommends that the term limit proposal would not be added to the ballot until 2016 or later. Rep. Curtin seconded that motion.

A roll call vote was taken on the motion to amend:

- Mills – yea
- Brooks – yea
- Asher – yea
- Coley – nay
- Curtin – yea

- Davidson – nay
- Taft – yea
- Tavares – yea
- Trafford – yea

The motion to amend passed.

Ms. Trafford asked why the committee should adopt both versions of the report and recommendation. Since only the committee had the benefit of the testimony, she wondered whether the Commission would be confused about the decision to recommend both options.

Dr. Asher replied that the difference between the two versions of the report and recommendation is inherently political. The options have essentially the same merit, but the version selected might impact whether the issue passes when it is put in front of the voters. Dr. Asher stated his belief that the full commission should have the opportunity to weigh in on that political question. He indicated it is better to give both options, rather than requiring the Commission to make the changes. “This puts everything on the table,” he said.

A roll call vote was taken on the adoption of both versions of the report and recommendation:

- Mills – yea
- Brooks – yea
- Asher – yea
- Coley – nay
- Curtin – yea
- Davidson – yea
- Taft – yea
- Tavares – yea
- Trafford – yea

The motioned passed. Chair Mills announced that both versions 1 and 2 of the report and recommendations to extend term limits, with the amendment that will postpone placing the issue on the ballot until 2016 or later, will be sent to the Coordinating Committee for discussion.

#### *SJR 1 – Public Office Compensation Commission*

Director Hollon reported that the staff has contacted speakers who will give testimony about the proposed compensation commission. He stated that there are several interested parties who are preparing to give testimony, but they are not prepared to do so at this meeting.

Chair Mills said that he fully intends to hold a meeting next month to discuss SJR 1.

#### **Adjournment:**

With no further business to come before the committee, the meeting adjourned at 1:30 p.m.



**Attachments:**

- Notice
- Agenda
- Roll call sheet
- Prepared remarks of Representative Kathleen Clyde
- Prepared remarks of Tony Seegers

**Approval:**

These minutes of the April 9, 2015 meeting of the Legislative Branch and Executive Branch Committee were approved at the May 14, 2015 meeting of the committee.

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Frederick E. Mills, Chair

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Paula Brooks, Vice-Chair



## **OHIO CONSTITUTIONAL MODERNIZATION COMMISSION**

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**TO:** Chair Frederick E. Mills, Vice Chair Paula Brooks, and  
Members of the Legislative Branch and Executive Branch Committee

**CC:** Steven C. Hollon, Executive Director

**FROM:** Steven H. Steinglass, Senior Policy Advisor

**RE:** Article II Issues

**DATE:** May 7, 2015

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At the December 11, 2014 meeting of the Legislative Branch and Executive Branch Committee, I provided a general overview of the provisions contained in Article II of the Ohio Constitution and identified issues that might merit further consideration by the committee. This memorandum builds on that presentation and provides additional information about Article II issues that the committee might wish to review. Attached to this memorandum is a summary of the highlights of my December 11, 2014 presentation.

This memorandum will not address issues already considered or being considered by the committee, including congressional redistricting, term limits, and the creation of a public office compensation commission.

### **1970s Review of Article II**

One of the major accomplishments of the 1970s Ohio Constitutional Revision Commission ("1970s Commission") was its thorough review of Article II and the recommendations that it made concerning approximately 10 sections of this Article. The committee may wish to learn more about not only what was accomplished as a result of this legislative review, but also which proposals did not make it out of the Commission and which recommendations, if any, never made it to the ballot.

### **Sections 1 and 1a to 1g - Plenary Power, Initiative and Referendum**

These sections were assigned to the Constitutional Revision and Updating Committee.

## **Section 2 - Length of Legislative Terms**

The committee recently has approved a report and recommendation that would extend the existing term limits for state legislators from eight years to twelve years.

## **Section 3 - Residency Requirements for State Legislators**

The one-year residency requirement adopted in 1851 permitted legislators to live outside their district as long as they lived within the county in which their district was located. The 1973 amendment required legislators to live in their districts.

## **Section 4 - Dual Office and Conflict of Interest Prohibited**

This provision was revised as a result of the 1970s Commission's review of Article II.

## **Section 5 - Embezzlers Holding Public Office**

This provision that has not changed since its adoption in 1851 prohibits persons convicted of embezzlement from holding public office. This provision was the subject of two attempted repeals in the 1970s. A recommendation by the 1970s Commission to repeal this provision was part of a three-issue joint resolution the Ohio Supreme Court removed from the ballot in 1972 for violating the "one amendment" rule of Article XVI, Section 1. A stand-alone proposal to repeal Article II, Section 5 was rejected by the voters on May 8, 1973, by a vote of 848,743 to 530,232.

The constitution has two related provisions on the ability of those convicted of felonies to hold public office. Under Article XV, Section 4, "no person shall be elected or appointed unless possessed of the qualifications of an elector." Article V, Section 1 establishes the qualifications of an elector, and Article V, Section 4 gives the General Assembly the power to exclude from the privilege of voting, or of being eligible to office, any person convicted of a felony." Thus, with the exception of the special provision for "embezzlers," the right to serve in the General Assembly (and in other public offices) tracks the right to vote.

The committee may want to review the continued presence in the constitution of a provision specifically barring only those convicted of embezzlement from holding "any office in this state." The committee may also want to examine the relationship of the embezzlement provisions with other provisions dealing with eligibility for service in public office.

## **Section 6 - Powers of Each House**

This provision was revised as a result of the 1970s Commission's review of Article II.

## **Section 7 - Organization of each House of the General Assembly**

This provision was revised as a result of the 1970s Commission's review of Article II.

## **Section 8 - Annual Sessions and Special Sessions**

Under the 1802 constitution, sessions of the General Assembly were annual, but the 1851 constitution sought to reduce the power of the General Assembly by creating biennial sessions. By 1857, however, the General Assembly was again meeting in annual sessions through a parliamentary device; they would “recess” at the end of the regular session and a second session would be held in “adjournment” during the second year. This practice continued until 1973, when this section was amended to conform the constitution to the prevailing practice. Under the new section, the General Assembly is able to have annual sessions by convening the first regular session in odd-numbered years and a second regular session in the following year.

The second part of this section defines special sessions of the General Assembly. Before 1973, only the governor (in accordance with Article III, Section 8) could call special sessions of the legislature. The 1973 amendment to this section allows either the governor or the presiding officers of both houses, acting jointly, to convene special sessions. The proclamation convening special sessions under this section may, but need not, limit the purpose of the session. The delegation to the General Assembly of the power to convene special sessions came largely in response to a report of the Citizens Conference on State Legislatures in the early 1970’s. The report ranked Ohio forty out of the fifty states in the control the legislature had over its own activities and in its independence from the other branches of government. One of the reasons given in the report was the General Assembly’s lack of power to call special sessions.

## **Section 9 - House and Senate Journals**

This provision was revised as a result of the 1970s Commission’s review of Article II.

## **Section 10 - Rights of Members to Protest**

Adopted in 1851, this provision gives any member of either house the right to protest against any act or resolution and to have the protest and the reasons for it entered without alteration in the journal.

## **Section 11 - Filling Vacancy in House or Senate Seat**

This provision was revised as a result of the 1970s Commission’s review of Article II.

## **Section 12 - Privilege of Member from Arrest**

Adopted in 1851, this provision provides that members of the General Assembly are privileged from arrest while going to and from the General Assembly.

## **Section 13 - Legislative Sessions to Be Public**

Adopted in 1851, this provision requires legislative sessions to be public unless two-thirds of those present conclude that secrecy is required.

## **Section 14 - Power of Adjournment**

This provision was revised as a result of the 1970s Commission's review of Article II.

## **Section 15 - How Bills Shall Be Passed**

This provision was revised as a result of the 1970s Commission's review of Article II.

### **Section 15(D) - One-Subject Requirement**

Article II, Section 15(D) provides that “[n]o bill shall contain more than one subject, which shall be clearly expressed in its title.” This provision has been the subject of much litigation during the last 35 years, including an important case now pending before the Ohio Supreme Court. *See State ex rel. Ohio Civil Service Employees Association v. State*, No. 2014-0319 (accepting discretionary appeal and cross appeal of a Tenth District Court of Appeals decision holding that a claim that prison privatization provisions in the budget bill stated a claim for a violation of the “one subject” rule and remanding the case for further proceedings and a determination of the appropriate relief) (to be argued May 20, 2015). *See State ex rel. Ohio Civil Service Employees Association v. State*, 2 N.E.3d 304, 2013-Ohio-4505 (2013).

## **Section 16 - Bills to Be Signed by Governor; Veto**

This provision was revised as a result of the 1970s Commission's review of Article II.

## **Section 17, 18 & 19- Signing of Bills; Style of Laws; Appointment to Civil Office**

These provisions were repealed as a result of the 1970s Commission's review of Article II.

## **Section 20 - Term of Office and Compensation**

Adopted in 1851, this provision gives the General Assembly the power to fix the compensation of officers, but bars any change during the term of office.

## **Section 21 - Contested Elections**

Adopted in 1851, this provision gives the General Assembly the authority to determine how the trial of contested elections shall be conducted.

## **Section 22 - Appropriations**

Adopted in 1851, this provision requires an appropriation to draw money from the treasury and bars appropriations for longer than two years.

## **Sections 23, 24, and 38 - Impeachment and Removal of Officers for Misconduct**

Section 23, and its companion Section 24, gives the House sole power of impeachment of state officials, with the Senate responsible for impeachment trials and impeachment and removal of public officials. In addition, Section 38 permits the General Assembly to pass laws providing for the prompt removal of state officials for “any misconduct involving moral turpitude or for other causes.” In addition, under Article IV, Section 17 both judges may be removed with notice and an opportunity to be heard by concurrent resolution of supported by two-thirds of the members of both houses of the General Assembly.

## **Section 25 - When Sessions Commence**

This provision was repealed as a result of the 1970s Commission’s review of Article II.

## **Section 26 - Legislative Submissions/Referenda**

Article II, Section 26, which is best known as the provision that requires the uniform operation of laws throughout the state, also contains a provision by which, in limited circumstances involving education, the General Assembly may submit proposed statutes to the voters for their approval. The text of Section 26, with the legislative submission italicized, is as follows:

All laws, of a general nature, shall have a uniform operation throughout the state; *nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the General Assembly,* except, as otherwise provided in this constitution. [Emphasis added.]

As far as I have been able to determine, this referendum procedure has only been used on one occasion. In 1998, the General Assembly, in response to the Ohio Supreme Court’s decision in *DeRolph v. State*, 78 Ohio St.3d 193, 677 N.E.2d 733 (1997), presented the voters with a proposal to increase the sales tax and other taxes to support education. The court upheld this use of a legislative submission/referendum, *see State ex rel. Taft v. Franklin County Court of Common Pleas*, 81 Ohio St.3d 480, 482, 692 N.E.2d 560, 562 (1998) (“[T]he general prohibition in Section 26, Article II against enactment of legislation whose effectiveness is dependent upon approval of another authority does not apply to legislation relating to public schools.”), but the voters rejected the proposal by a substantial margin. Unlike Ohio, some states, especially California and Washington, have broad provisions for submitting proposed legislation to the voters and make frequent use of this procedure.

## **Section 27 - Election and Appointment of Officers; Filling Vacancies**

This provision addresses the power of the General Assembly to determine the manner for the appointment of officers (not otherwise provided for in the constitution), but denies the General Assembly the power to make appointments itself.

## **Section 28 - Retroactive Laws**

Adopted in 1851, this provision has been the subject of much litigation. Unlike the prohibition on ex post facto criminal laws, this provision broadly bars the adoption of civil laws including but not limited to retroactive laws that impair contracts.

## **Section 29 - No Extra Compensation**

Adopted in 1851, this provision limits the circumstances in which extra compensation may be made after the services have been rendered.

## **Section 30 - New Counties**

Adopted in 1851, this provision outlines the procedures for creating new counties, none of which may contain less than 400 square miles of territory.

## **Section 31 - Compensation of Members and Officers of the General Assembly**

Adopted in 1851, this provision addresses the compensation for members of the General Assembly.

## **Section 32 - Divorces and Judicial Power**

Adopted in 1851, this provision prohibits the General Assembly from granting divorces; it also bars the General Assembly from exercising the judicial power.

## **Section 34a - Minimum Wage**

Adopted in 2006 by initiative, this provision establishes a state minimum wage and provides for an automatic annual increase

## **Section 36 - Conservation of Natural Resources**

In addition to authorizing the passage of laws to encourage forestry and agriculture, this provision permits non-uniform taxation of land devoted exclusively to agricultural use.

## **Constitutional Overrides of Supreme Court Decisions**

Several provisions of Article II have their origin in the efforts of the 1912 Constitutional Convention to override decisions of the Ohio Supreme Court (or to avoid future decisions that the delegates feared would be forthcoming). Most of these decisions called into question the power of the General Assembly to adopt social or employee welfare legislation. Typically, these provisions only authorized the General Assembly to do that which it could do under its plenary power.

These provisions include:

Section 33	Mechanics' and Contractor's Liens
Section 34	Welfare of Employees
Section 35	Workers' Compensation
Section 37	Workday and Workweek on Public Projects
Section 39	Regulating Expert Testimony in Criminal Trials
Section 40	Registering and Warranting Land Titles
Section 41	Prison Labor

Two of these provisions, Section 33, and Section 34, have supremacy clauses that immunize statutes enacted under their authority from all state constitutional requirements. *E.g.*, “No other provision of the constitution shall impair or limit this power.”

### **Section 42 - Continuity of Government Operations in Emergencies Caused by Enemy Attack**

Adopted in 1961, this provision requires the General Assembly to pass laws to provide for the continuation of government in the event of an enemy attack.

### **Unicameralism**

Only one of the 50 states, Nebraska, has rejected the use of a bicameral legislature. This issue did not arise during the 1970s Commission proceedings, and to date no member of the current Commission has expressed interest in considering the abandonment of a bicameral legislature. A leading authority on state constitutional law has observed that the “contemporary case for bicameralism, in the wake of *Reynolds v. Sims* [the one-man, one-vote case], is weaker than it has been in the past.” *See* Alan Tarr, *Bicameralism or Unicameralism?* (Testimony before the Majority Policy Committee, Pennsylvania Legislature) (April 2010). Nonetheless, there has been little interest throughout the country, and voters in Montana and North Dakota defeated proposals for unicameral legislatures. *Id.*



## ATTACHMENT

### SUMMARY OF DECEMBER 11, 2014, PRESENTATION

#### OVERVIEW OF ARTICLE II AND ITS HISTORY

#### SUMMARY OF DECEMBER PRESENTATION

This summary is an expansion of my December 11, 2014 presentation.

##### *Plenary Power*

In adopting a constitution, the people of Ohio delegated all legislative power to the General Assembly subject only to other constitutional limitations. This grant of legislative power differs fundamentally from the grant of legislative power to Congress under the federal constitution. Unlike the U.S. Constitution, which grants Congress specific, enumerated powers, the Ohio Constitution “is primarily a limitation on the legislative power of the General Assembly.” *See State v. Warner*, 55 Ohio St.3d 31, 564 N.E.2d 18 (1990). Thus, the General Assembly may enact any law not prohibited by the state or federal constitutions, and a law passed by the General Assembly is presumed constitutional unless it is incapable of a fair reconciliation with the constitution.

##### *Separation of Powers*

Ohio does not have a constitutional provision expressly regulating the separation of powers among the branches of government, and is one of a minority of states without such a provision. Nonetheless, the Ohio Supreme Court has held that the doctrine of separation of powers “is implicitly embedded in the entire framework of those sections of the Ohio Constitution that define the substance and scope of powers granted to the three branches of government.”

##### *History of Article II*

##### 1802 Ohio Constitution

- The Legislative Article was Article I, reflecting the importance of the General Assembly
- General Assembly appointed judges as well as the secretary of state, the treasurer, the auditor, and the chief military officers
- Almost no limitations on the power of the General Assembly
- General Assembly operated primarily through special legislation/private bills
- Governor did not have the veto power



## 1851 Ohio Constitution

- General Assembly lost the power of appointment
- Voters were given the right to elect judges and other statewide officials (auditor, attorney general, secretary of state, treasurer)
- Governor still lacked the veto power
- Introduced limitations on the power of the General Assembly

## Post-1851 Amendments

- 1903 Governor given the veto
- 1912 Direct democracy proposals from the 1912 Constitutional Convention gave the people the power of the initiative and referendum
- 1973 Major review and re-organization as a result of the work of the 1970s Ohio Constitutional Revision Commission
- 

## Overview of Changes in Article II of the 1851 Constitution

- Article II is one of the most frequently amended Articles of the Ohio Constitution
- Originally, Article II had 32 sections
- 15 of the original sections have never been amended
- 5 of the original sections were amended in 1973 as part of the legislative reorganization that resulted from the recommendations of the 1970s Commission
- 4 of the original sections were amended (apart from the 1973 reorganization) some multiple times
- 4 of the original sections were repealed in 1973 as part of the legislative reorganization that resulted from the recommendations of the 1970s Commission
- 6 new sections that were adopted as a result of the recommendations of the 1912 Constitutional Convention have never been amended
- 4 new sections that were adopted as a result of the recommendations of the 1912 Constitutional Convention were subsequently amended



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### REPORT AND RECOMMENDATION OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

#### OHIO CONSTITUTION ARTICLE II, SECTION 2

#### ELECTION AND TERM OF STATE LEGISLATORS

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The Legislative Branch and Executive Branch Committee of the Ohio Constitutional Modernization Commission issues this report and recommendation regarding Article II, Section 2 of the Ohio Constitution concerning the election and term of state legislators. It is issued pursuant to Rule 8.2 of the Ohio Constitutional Modernization Commission's Rules of Procedure and Conduct.

#### **Recommendation**

*The committee recommends that Article II, Section 2 be amended to extend term limits to allow state legislators to serve a total of twelve consecutive years, consisting of three four-year terms for senators and six two-year terms for representatives. The committee also recommends two options for extending term limits, with Option One applying to sitting and newly-elected legislators, and Option Two applying only to newly-elected legislators.*

*The committee further recommends that Article II, Section 2 be reorganized to first describe the length of term and term limits for state senators, followed by a description of the length of term and term limits for state representatives. This reorganization does not alter the substance of the provision, but is intended to assist the reader's comprehension of the meaning of the section by bringing it in line with the structure of other sections in Article II that reference senators in the first instance, followed by a reference to representatives.*

*Finally, the committee recommends that should the legislature act on this proposal, it should be slated for an election in 2016 or later.*

## **Background**

Article II, Section 2 reads as follows:

Representatives shall be elected biennially by the electors of the respective house of representatives districts; their term of office shall commence on the first day of January next thereafter and continue two years.

Senators shall be elected by the electors of the respective senate districts; their terms of office shall commence on the first day of January next after their election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January, 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years.

No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

Article II concerns the Legislative Branch, providing the organizational structure and membership requirements of the General Assembly, the governor's veto power, and the procedures for initiative and referendum.

## **Amendments, Proposed Amendments, and Other Review**

The 1802 constitution provided for terms of only one year for representatives and two years for senators.<sup>1</sup> The 1851 constitution increased the terms to two years for each. Term lengths of two years for senators remained in place until 1956, when voters approved, by a vote of 57.4 percent to 42.6 percent, an amendment that increased the term of office to four years.<sup>2</sup> Another amendment in 1967 staggered senate terms, requiring only half of the senate to stand for election at a time.<sup>3</sup>

In the early 1990s, some 21 states enacted state legislative term limits, responding to public opinion that “career politicians” were to blame for perceived governmental deficiencies.<sup>4</sup> In line with that trend, Ohio voters adopted an amendment limiting all state legislators to eight consecutive years of service, with the result that senators may only serve two successive terms of four years, and representatives may only serve four successive terms of two years.<sup>5</sup> Placed on the ballot by initiative petition as Issue 3, the measure was approved on November 3, 1992 by a margin of 2,982,285 to 1,378,009, or 68.4 percent to 31.6 percent.<sup>6</sup>

In the 1970s, the Ohio Constitutional Revision Commission did not review this provision.

### **Litigation Involving the Provision**

Article II, Section 2 has not been the subject of litigation; however, similar state constitutional provisions by which Ohio and other states imposed term limits upon federal congressional offices were rejected in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) (“Allowing individual States to adopt their own qualifications for congressional service would be inconsistent with the Framers' vision of a uniform National Legislature representing the people of the United States.”).

### **Presentations and Resources Considered**

On this issue, the committee received two presentations from John C. Green, Ph.D., Director of the Bliss Institute of Applied Politics at the University of Akron, as well as presentations from Ann Henkener, First Vice President of the League of Women Voters of Ohio; Rob Walgate, Vice President of the American Policy Roundtable; and Tony Seegers, Director of State Policy for the Ohio Farm Bureau Federation.

#### *First Green Presentation*

John C. Green first presented to the committee on April 10, 2014. According to Dr. Green, Ohio’s model, called the “common model,” imposes eight-year consecutive limits in each chamber, while other models include six- or eight-year consecutive limits for the house and senate respectively, twelve-year lifetime limitations in both chambers combined, and twelve-year consecutive limits in each chamber. Dr. Green indicated that, between 1997 and 2012, six states repealed or struck down term limits, while one state enacted term limits. Thus, in 2014, 15 states had legislative term limits.

Describing the impact of legislative term limits, Dr. Green stated that term limits have impeded the development of legislative leaders, reducing leaders’ agenda-setting and coalition-building capabilities. He further indicated that the limits reduce the influence of the legislative branch in state government, instead empowering the executive branch, administrative agencies, nonpartisan staff, and lobbyists. Dr. Green also indicated that term limits increase partisanship and reduce the time legislators have to accomplish legislative goals. He noted that term limits have failed to achieve the goal of increasing the number of “citizen legislators,” as opposed to career legislators. Dr. Green observed that term limits have not increased gender, racial, or ethnic diversity in state legislatures.

Dr. Green stated that term limits have had only a modest impact on the electoral process, with no increase in the overall competitiveness of elections, no decrease in campaign spending, and an increase in the role of party caucuses in legislative campaigns. Dr. Green opined that, despite these drawbacks, term limits will continue to have strong public support. However, he stated that increasing the limits from 8 years to 12 years may alleviate the problem of a diminished role for legislative leadership. He also indicated that allowing former legislators to return to office mitigates some of the impact of term limits.

### *Second Green Presentation*

In his second presentation to the committee, on June 12, 2014, Dr. Green presented polling data related to term limits. Conducted by the Center for Marketing and Opinion Research for the Bliss Institute in April 2014, the “2014 Akron Buckeye Poll” surveyed a random sample of 1,078 registered Ohio voters, including both landline and cell phone users. Participants were asked whether they thought term limits produced poor government or good government and whether the limits have helped or hurt the state. The resulting data, with a margin of error of plus or minus three percentage points, indicates that 57 percent of those polled indicated they thought term limits have helped the state, with 30 percent stating that the limits hurt the state and 13 percent having no opinion. These figures may be compared with 2005 polling data indicating that 59 percent of voters believed term limits help the state, with 30 percent saying the limits hurt the state and 11 percent indicating they had no opinion.

Asked whether term limits should be kept at eight years, extended to 12 years, or repealed altogether, 70 percent of those polled favored keeping term limits at eight years, with 13 percent willing to extend the limits to 12 years, 12 percent agreeing they should be repealed altogether, and five percent having no opinion. Queried as to whether they could accept an increase in the limit to 12 years, 38 percent of participants answered they were firm on keeping the total number of years served at eight, with 32 percent willing to accept a 12-year limit, 13 percent being firm on a 12-year limit, 12 percent supporting a complete repeal of term limits, and five percent having no opinion.

Asked whether they would support increasing state legislative terms by two years, meaning that representatives would serve a four-year term and senators a six-year term, 61 percent of participants indicated they would support such a measure, with 36 percent indicating they would not and three percent having no opinion.

Sixty-two percent of participants stated that it should take a legislator less than five years to learn the job, while 28 percent said five-to-ten years was appropriate, seven percent identifying more than 10 years as the correct time span, and three percent having no opinion.

### *Henkener Presentation*

Ann Henkener, First Vice President of the League of Women Voters of Ohio (“League”), presented to the committee on July 10, 2014. According to Ms. Henkener, the League’s long opposition to term limits is based upon the rationale that terms are inherently limited to two years

for representatives and four years for senators, requiring legislators to seek re-election at the end of those terms. Ms. Henkener asserted that the arguments against term limits as presented by the League to voters in 1992, when the current version of Article II, Section 2 appeared on the ballot, have proved mostly true. As she described them, those arguments are that term limits create more “lame duck” legislators, reduce competition for legislative seats, result in less-experienced legislators, reduce institutional memory, impede long-term thinking about societal problems, and increase the power of staff, bureaucrats, and lobbyists. Ms. Henkener opined that voters continue to support the concept of term limits because they are perceived as a counterbalance to problems attributed to the redistricting process. She stated that if redistricting reform occurs, allowing for more competitive districts, then voters might look more favorably on extending term limits.

### *Walgate Presentation*

On March 12, 2015, Rob Walgate, Vice President of the American Policy Roundtable presented to the committee on term limits for Ohio legislators, expressing his organization’s support for retaining Article II, Section 2 in its current form. Describing the history of term limits in the Ohio Constitution, Mr. Walgate said that, in 1992, when the provision was adopted, concessions were made that gave legislators eight-year, rather than six-year limits, phased in the limitation so as not to unduly burden sitting legislators, allowed term-limited legislators to switch chambers, and allowed that serving a partial term would not count against the eight-year limit. According to Mr. Walgate, these concessions have permitted legislators to serve many years, thus debunking what he called the “myth” that institutional knowledge has been compromised by term limits. Mr. Walgate continued by saying that Ohio voters have not requested any change to term limits, but that the proposal to extend the limits is being promoted in the interest of “politicians and their lobbying allies.” Mr. Walgate expressed his concern that an amendment to extend term limits would be placed on the ballot at taxpayer expense and absent a taxpayer request. He also expressed a concern that, if the proposal is placed on the ballot in 2015, it would not be presented to voters in a year in which voter turnout is particularly high.

Asked how many voters participated in the 1992 vote to adopt term limits, Mr. Walgate replied that there were thousands who signed the petitions, and that currently there is no consensus of the will of the people that term limits should be changed. He further indicated that 1992 was a presidential election year, so there was high voter turnout. As further evidence of public support for term limits, Mr. Walgate said that the signature gatherers for the 1992 petition were unpaid. Mr. Walgate concluded that extending term limits would create an imbalance of power, and that his organization does not see the need to change the existing law.

### *Seegers Presentation*

On April 9, 2015, the committee heard a presentation by Tony Seegers, who is Director of State Policy for the Ohio Farm Bureau Federation. According to Mr. Seegers, the Farm Bureau’s public policy development process encourages and relies upon participation by all of its members, who approve the organization’s policy positions at both the county and state levels. Mr. Seegers indicated his organization’s support for extending term limits for state legislators to 12 years, based upon the recognition that limiting the number of years of service reduces



legislators' ability to gain expertise, as well as depriving the General Assembly of the benefits of the institutional memory of its members. Mr. Seegers cited data indicating that, when term limits took their full effect in 2001 and many members were forced out, the General Assembly lost approximately 648 years of combined service. Mr. Seegers also expressed the Farm Bureau's support for extending term lengths by two years, so that representatives would serve four-year terms, while senators would serve six-year terms.

## **Conclusion**

The Legislative Branch and Executive Branch Committee concludes that Article II, Section 2 should be amended to expand term limits for state senators by one term, and for state representatives by two terms. The committee also concludes that two options for amendment are acceptable.

In Option One, the committee concludes that the expanded term limits should apply to legislators who are in office at the time of the effective date of an amendment, with the result that senators who are in their first term would be eligible to hold office for two more four-year terms, while senators in their second term would be eligible for one additional four-year term. Likewise, representatives in their first term may hold office for five more two-year terms, those in their second term would be permitted four more two-year terms, and so on. The modified provision additionally would allow newly-elected legislators to be eligible to serve twelve consecutive years in their respective houses. A marked-up version of Option One is provided at Attachment A1. A clean version of Option One is provided at Attachment A2.

In Option Two, the committee concludes that the expanded terms should not apply to current members of the General Assembly, who would be limited to eight consecutive years of service in their respective houses. A marked-up version of Option Two is provided at Attachment B1. A clean version of Option Two is provided at Attachment B2. Optional language titled "EFFECTIVE DATE AND REPEAL," and "SCHEDULE 1," which is necessary to add to the ballot in order to limit the extensions to prospective application, has been added to the end of Attachment B1 and B2.

The committee further concludes that Article II, Section 2 should be reorganized to first describe the length of term and term limits for state senators, followed by a description of the length of term and term limits for state representatives. This reorganization does not alter the substance of the provision, but is intended to assist the reader's comprehension of the section by bringing it in line with the structure of other sections in Article II that reference senators in the first instance, followed by a reference to representatives.

Finally, the committee concludes that any proposal for an amendment extending term limits should not be presented to voters until 2016 or later.

## **Date Adopted**

After formal consideration by the Legislative Branch and Executive Branch Committee on March 12, 2015, and April 9, 2015, the committee voted to adopt two separate reports and



recommendations on April 9, 2015. The committee then voted to approve the consolidation of the two reports and recommendations into a single report and recommendation on

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## Endnotes

<sup>1</sup> Steven H. Steinglass & Gino J. Scarselli, *The Ohio State Constitution* (2nd prtg. 2011), p. 140.

<sup>2</sup> Michael F. Curtin, *Ohio Politics Almanac* (Kent: Kent State UP, 2d Ed., 2006), p. 83.

<sup>3</sup> Steinglass & Scarselli, *supra*.

<sup>4</sup> Steven F. Huefner, Term Limits in State Legislative Elections: Less Value for More Money?, 79 Ind. L.J. 427, 428 (2004).

<sup>5</sup> Steinglass & Scarselli, *supra*, p. 141.

<sup>6</sup> *Id.*, Appendix B.

## Option One

### *Article II, Section 2*

~~Representatives shall be elected biennially by the electors of the respective House of Representative districts; their term of office shall commence on the first day of January next thereafter and continue two years.~~

Senators shall be elected by the electors of the respective Senate districts; ~~their~~. The terms term of office of a senator shall commence on the first day of January next after their following the election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January, 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representative districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

~~No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.~~

In determining the eligibility of an individual to hold office in accordance ~~to~~ with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

## **Option One**

### *Article II, Section 2*

Senators shall be elected by the electors of the respective Senate districts. The term of office of a senator shall commence on the first day of January following the election. All terms of senators which commence on the first day of January 1969 shall be four years, and all terms which commence on the first day of January 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representatives districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

## Option Two

### *Article II, Section 2*

~~Representatives shall be elected biennially by the electors of the respective House of Representatives districts; their term of office shall commence on the first day of January next thereafter and continue two years.~~

Senators shall be elected by the electors of the respective Senate districts; ~~their~~. The term of office of a senator shall commence on the first day of January next after their following the election. All terms of senators which commence on the first day of January, 1969 shall be four years, and all terms which commence on the first day of January, 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representative districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

~~No person shall hold the office of State Senator for a period of longer than two successive terms of four years. No person shall hold the office of State Representative for a period longer than four successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1993 shall be considered in determining an individual's eligibility to hold office.~~

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

### EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, Section 2 of Article II as amended by this proposal shall take effect on January 1, \_\_\_\_\_, and existing Section 2 of Article II shall be repealed effective January 1, \_\_\_\_\_.

## SCHEDULE 1

The version of Section 2 of Article II in effect on December 31, \_\_\_\_\_, shall apply to senators and representatives who are in office on that date.

The version of Section 2 of Article II as amended by this proposal shall first apply to senators and representatives who are appointed or elected on or after the effective date of this amendment and who are not in office on December 31, \_\_\_\_\_.

## Option Two

### *Article II, Section 2*

Senators shall be elected by the electors of the respective Senate districts. The term of office of a senator shall commence on the first day of January following the election. All terms of senators which commence on the first day of January 1969 shall be four years, and all terms which commence on the first day of January 1971 shall be four years. Thereafter, except for the filling of vacancies for unexpired terms, senators shall be elected to and hold office for terms of four years. No person shall hold the office of senator for a period longer than three successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years.

Representatives shall be elected biennially by the electors of the respective House of Representatives districts. The term of office of a representative shall commence on the first day of January following the election and continue two years. No person shall hold the office of representative for a period longer than six successive terms of two years. Terms shall be considered successive unless separated by a period of four or more years.

In determining the eligibility of an individual to hold office in accordance with this article, (A) time spent in an office in fulfillment of a term to which another person was first elected shall not be considered provided that a period of at least four years passed between the time, if any, in which the individual previously held that office, and the time the individual is elected or appointed to fulfill the unexpired term; and (B) a person who is elected to an office in a regularly scheduled general election and resigns prior to the completion of the term for which he or she was elected, shall be considered to have served the full term in that office.

### EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, Section 2 of Article II as amended by this proposal shall take effect on January 1, \_\_\_\_\_, and existing Section 2 of Article II shall be repealed effective January 1, \_\_\_\_\_.

### SCHEDULE 1

The version of Section 2 of Article II in effect on December 31, \_\_\_\_\_ shall apply to senators and representatives who are in office on that date.

The version of Section 2 of Article II as amended by this proposal shall first apply to senators and representatives who are appointed or elected after the effective date of this amendment and who are not in office on December 31, \_\_\_\_\_.

**As Adopted by the Senate**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. S. J. R. No. 1**

**Senator Faber**

**Cosponsors: Senators Widener, Patton, Oelslager, Obhof, Williams, Seitz,  
LaRose, Bacon, Beagle, Hottinger, Coley, Balderson, Brown, Burke, Hite,  
Hughes, Jones, Lehner, Manning, Peterson, Sawyer, Tavares, Thomas,  
Uecker, Yuko**

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**JOINT RESOLUTION**

Proposing to amend Sections 4, 20, and 31 of Article 1  
II, Section 19 of Article III, and Section 6 of 2  
Article IV and to enact Section 20a of Article II 3  
of the Constitution of the State of Ohio to 4  
establish the Public Office Compensation 5  
Commission. 6

Be it resolved by the General Assembly of the State of 7  
Ohio, three-fifths of the members elected to each house 8  
concurring herein, that there shall be submitted to the 9  
electors of the state, in the manner prescribed by law at the 10  
general election to be held on November 3, 2015, a proposal 11  
to amend Sections 4, 20, and 31 of Article II, Section 19 of 12  
Article III, and Section 6 of Article IV and to enact Section 13  
20a of Article II of the Constitution of the State of Ohio to 14  
read as follows: 15

**ARTICLE II** 16

**Section 4.** No member of the general assembly shall, 17  
during the term of office for which ~~he~~the member was 18  
elected, unless during such term ~~he~~the member resigns 19  
therefrom, hold any public office under the United States, 20  
or this state, or a political subdivision thereof; but this 21  
provision does not extend to officers of a political party, 22  
notaries public, or officers of the militia or of the United 23  
States armed forces. 24

No member of the general assembly shall, during the 25  
term of office for which ~~he~~the member was elected, or for 26  
one year thereafter, be appointed to any public office under 27  
this state, which office was created ~~or the compensation of~~ 28  
~~which was increased,~~ during the term of office for which ~~he~~ 29  
the member was elected. 30

**Section 20.** The General Assembly, in cases not provided 31  
for in this constitution, shall fix the term of office and 32  
the compensation of all officers; but no change therein 33  
shall affect the salary of any officer during ~~his~~the 34  
officer's existing term of office, unless the office be 35  
abolished. 36

**Section 20a.** (A) The Public Office Compensation 37  
Commission is created. The Commission consists of the 38  
following nine voting members: two members appointed by the 39  
Governor; two members appointed by the President of the 40  
Senate; two members appointed by the Speaker of the House of 41  
Representatives; one member appointed by the legislative 42  
leader of the largest political party in the Senate of which 43  
the President of the Senate is not a member; one member 44  
appointed by the legislative leader of the largest political 45  
party in the House of Representatives of which the Speaker 46  
of the House of Representatives is not a member; and one 47



member appointed by the Chief Justice of the Supreme Court. 48  
The following are not eligible to be appointed as a member 49  
of the Commission: (1) an officer or employee of the state 50  
or a political subdivision of the state or a family member, 51  
as defined by law, of an officer or employee of the state or 52  
a political subdivision of the state; (2) an individual who, 53  
within twelve months before appointment, was a candidate for 54  
election to a public office in the state; or (3) an 55  
individual who engages during at least a portion of the 56  
individual's time to actively advocate legislation on behalf 57  
of another. 58

Terms of members of the Commission are for two years. 59  
Members may not serve more than four consecutive terms. The 60  
Commission chairperson shall be selected by majority vote of 61  
all members of the Commission. Members are not entitled to 62  
compensation, but shall be reimbursed for actual and 63  
necessary expenses incurred in the performance of Commission 64  
duties. A vacancy among the members of the Commission shall 65  
be filled in the manner prescribed for the original 66  
appointment. A member may be removed from the Commission 67  
only by that member's designated appointing authority and 68  
only if it is found that the member is inefficient or 69  
derelict in the discharge of the member's duties. 70

(B) (1) The Public Office Compensation Commission shall 71  
meet each even-numbered year to review the current 72  
compensation of each elected public office in the state. The 73  
Commission shall consider such factors as are provided by 74  
law, including the amount of compensation paid to similarly 75  
skilled individuals in the private sector, the amount of 76  
compensation paid to individuals in comparable elected 77  
public offices in other states, and the current financial 78

condition of and within Ohio. After completing its review, 79  
the Commission, by vote of at least five of its members, 80  
shall prepare a proposed compensation plan that sets forth 81  
the compensation of each elected public office in the state. 82  
The Commission shall prepare a report of its proposed 83  
compensation plan and promptly submit the report to the 84  
Governor, the President of the Senate, the legislative 85  
leader of the largest political party in the Senate of which 86  
the President of the Senate is not a member, the Speaker of 87  
the House of Representatives, the legislative leader of the 88  
largest political party in the House of Representatives of 89  
which the Speaker of the House of Representatives is not a 90  
member, and the Chief Justice of the Supreme Court. The 91  
Commission shall present the proposed compensation plan and 92  
report at not less than three public hearings in the state 93  
in order to obtain public input regarding the proposed 94  
compensation plan. After conducting its public hearings, the 95  
Commission, by vote of at least five of its members, shall 96  
issue a final compensation plan that sets forth the 97  
compensation of each elected public office in the state. The 98  
Commission shall prepare a report of its final compensation 99  
plan not later than the last day of December in each even- 100  
numbered year and, upon completion of the report, promptly 101  
submit it to the Governor, the President of the Senate, the 102  
legislative leader of the largest political party in the 103  
Senate of which the President of the Senate is not a member, 104  
the Speaker of the House of Representatives, the legislative 105  
leader of the largest political party in the House of 106  
Representatives of which the Speaker of the House of 107  
Representatives is not a member, and the Chief Justice of 108  
the Supreme Court. 109

If a proposed or final compensation plan increases or 110  
decreases the compensation amount of an elected public 111  
office by greater than the lesser of the following, the 112  
Commission shall include, in its accompanying report, 113  
specific factors that support the increase or decrease: 114

(a) Three per cent; or 115

(b) The percentage increase, if any, in the consumer 116  
price index, or a generally available comparable index, over 117  
the twelve-month period that ends on the thirtieth day of 118  
September of the immediately preceding year, rounded to the 119  
nearest one-tenth of one per cent. 120

(2) The compensation amounts set forth in the final 121  
compensation plan for each elected public office in the 122  
state shall take effect on the first day of July of the 123  
following odd-numbered year unless, before that day, the 124  
General Assembly, by a three-fifths vote of the members 125  
elected to each house, adopts a concurrent resolution 126  
rejecting one or more of the compensation amounts. In that 127  
event, only those compensation amounts not rejected by the 128  
General Assembly shall take effect on that date. 129

If the General Assembly rejects a final compensation 130  
plan or portion thereof, a member of the General Assembly 131  
who, at the time the plan was voted on, voted or would have 132  
been entitled to vote thereon, is not entitled to an 133  
increase in compensation for the duration of the member's 134  
term of office. 135

(3) The compensation amount established under this 136  
section for a judicial office may be decreased during a 137  
judicial officer's existing term of office only if both of 138  
the following conditions are met: 139

(a) The General Assembly passes a bill by a three- 140  
fifths vote of the members elected to each house that 141  
declares a state of fiscal emergency requiring an in-term 142  
decrease in compensation and decreases the compensation 143  
amount for every elected public office by the same 144  
percentage. 145

(b) The Governor signs the bill. 146

(C) This section does not affect the compensation of a 147  
county officer elected under a county charter that has been 148  
adopted under Article X, Sections 3 and 4 of this 149  
constitution, or the compensation of an officer of a 150  
municipal corporation elected under the power of local self- 151  
government as exercised by a municipal corporation under 152  
Article XVIII, Sections 3 and 7 of this constitution. 153

(D) This section shall otherwise be implemented in the 154  
manner and to the extent provided by the General Assembly by 155  
law. 156

**Section 31.** ~~The members and officers of the General~~ 157  
~~Assembly shall receive a fixed compensation, to be~~ 158  
~~prescribed by law, and no other allowance or perquisites,~~ 159  
~~either in the payment of postage or otherwise; and no change~~ 160  
~~in their compensation shall take effect during their term of~~ 161  
~~office. as provided for in Article II, Section 20a of this~~ 162  
constitution. 163

### **ARTICLE III** 164

**Section 19.** The officers mentioned in this article 165  
shall, at stated times, receive, for their services, a- 166  
~~compensation to be established by law, which shall neither~~ 167  
~~be increased nor diminished during the period for which they~~ 168

~~shall have been elected as provided for in Article II,~~ 169  
~~Section 20a of this constitution.~~ 170

**ARTICLE IV** 171

**Section 6.** (A) (1) The chief justice and the justices of 172  
the supreme court shall be elected by the electors of the 173  
state at large, for terms of not less than six years. 174

(2) The judges of the courts of appeals shall be 175  
elected by the electors of their respective appellate 176  
districts, for terms of not less than six years. 177

(3) The judges of the courts of common pleas and the 178  
divisions thereof shall be elected by the electors of the 179  
counties, districts, or, as may be provided by law, other 180  
subdivisions, in which their respective courts are located, 181  
for terms of not less than six years, and each judge of a 182  
court of common pleas or division thereof shall reside 183  
during ~~his~~ the judge's term of office in the county, 184  
district, or subdivision in which ~~his~~ the judge's court is 185  
located. 186

(4) Terms of office of all judges shall begin on the 187  
days fixed by law, and laws shall be enacted to prescribe 188  
the times and mode of their election. 189

(B) The judges of the supreme court, courts of appeals, 190  
courts of common pleas, and divisions thereof, and of all 191  
courts of record established by law, shall, at stated times, 192  
receive, for their services such compensation as ~~may be~~ 193  
~~provided by law, which shall not be diminished during their~~ 194  
~~term of office~~ for in Article II, Section 20a of this 195  
constitution. The compensation of all judges of the supreme 196  
court, except that of the chief justice, shall be the same. 197

The compensation of all judges of the courts of appeals 198  
shall be the same. Common pleas judges and judges of 199  
divisions thereof, and judges of all courts of record 200  
established by law shall receive such compensation as ~~may be~~ 201  
~~provided by law~~ for in Article II, Section 20a of this 202  
constitution. Judges shall ~~receive no fees or perquisites,~~ 203  
~~nor not~~ hold any other office of profit or trust, under the 204  
authority of this state, or of the United States. All votes 205  
for any judge, for any elective office, except a judicial 206  
office, under the authority of this state, given by the 207  
general assembly, or the people shall be void. 208

(C) No person shall be elected or appointed to any 209  
judicial office if on or before the day when ~~he~~ the person 210  
shall assume the office and enter upon the discharge of its 211  
duties ~~he~~ the person shall have attained the age of seventy 212  
years. Any voluntarily retired judge, or any judge who is 213  
retired under this section, may be assigned with ~~his~~ the 214  
judge's consent, by the chief justice or acting chief 215  
justice of the supreme court to active duty as a judge and 216  
while so serving shall receive the established compensation 217  
for such office, computed upon a per diem basis, in addition 218  
to any retirement benefits to which ~~he~~ the judge may be 219  
entitled. Laws may be passed providing retirement benefits 220  
for judges. 221

SCHEDULE I 222

The Public Office Compensation Commission shall meet in 223  
2015 to review the current compensation of each elected 224  
public office in the state. The Commission shall issue a 225  
proposed compensation plan and final compensation plan, and 226  
the accompanying reports, not later than ~~December 31,~~ 227  
~~2015~~ February 29, 2016, in accordance with the process in 228

Article II, Section 20a of the Constitution. 229

The compensation amounts set forth in the final 230  
compensation plan for each elected public office in the 231  
state shall take effect on July 1, 2016, unless, before that 232  
day, the General Assembly, by a three-fifths vote of the 233  
members elected to each house, adopts a concurrent 234  
resolution rejecting one or more of the compensation 235  
amounts. In that event, only those compensation amounts not 236  
rejected by the General Assembly shall take effect on that 237  
date. 238

If the General Assembly rejects a final compensation 239  
plan or portion thereof, a member of the General Assembly 240  
who, at the time the plan was voted on, voted or would have 241  
been entitled to vote thereon, is not entitled to an 242  
increase in compensation for the duration of the member's 243  
term of office. 244

#### SCHEDULE II 245

The term of an initial appointment to the Commission 246  
begins upon appointment and ends December 31, 2017. 247

If, by November 13, 2015, one or more appointments have 248  
not been made to the Commission, a majority of the members 249  
of the Commission who have been appointed by that date shall 250  
appoint, not later than November 15, 2015, a sufficient 251  
number of individuals to the Commission so that the 252  
Commission consists of nine voting members, and shall 253  
promptly notify the Governor, President of the Senate, 254  
Speaker of the House of Representatives, Minority Leader of 255  
the Senate, Minority Leader of the House of Representatives, 256  
and Chief Justice of the Supreme Court appointing 257  
authorities listed in Division (A) of Section 20a of Article 258

II of the Ohio Constitution of the appointments. 259

SCHEDULE III 260

Some of the proposed amendments to Ohio Constitution, 261  
Article II, Sections 4 and 20, and Article IV, Section 6, 262  
replace gender specific language with gender neutral 263  
language. These amendments are not intended to make 264  
substantive changes in the Ohio Constitution. The gender 265  
neutral language shall be interpreted as a restatement of, 266  
and substituted in a continuing way for, the corresponding 267  
gender specific language existing prior to adoption of the 268  
proposal. 269

EFFECTIVE DATE AND REPEAL 270

If adopted by a majority of the electors voting on this 271  
proposal, Sections 4, 20, and 31 of Article II, Section 19 272  
of Article III, and Section 6 of Article IV of the 273  
Constitution of the State of Ohio as amended by this 274  
proposal and Section 20a of Article II of the Constitution 275  
of the State of Ohio shall take effect immediately and 276  
existing Sections 4, 20, and 31 of Article II, Section 19 of 277  
Article III, and Section 6 of Article IV of the Constitution 278  
of the State of Ohio are repealed effective immediately. 279





# Ohio Legislative Service Commission

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## Resolution Analysis

Jennifer A. Parker

### Sub. S.J.R. 1\*

131st General Assembly  
(As Reported by S. Finance)

**Sens.** Faber, Widener, Patton, Oelslager, Obhof, Williams, Seitz, LaRose, Bacon, Beagle, Hottinger

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## RESOLUTION SUMMARY

- Creates the Public Office Compensation Commission consisting of nine voting members.
- Requires the Commission, in each even-numbered year, to review the compensation of elected public offices in the state.
- Requires the Commission to create a proposed compensation plan and a report, and to present the plan and report at not less than three public hearings to receive public input.
- Requires the Commission to issue a final compensation plan and a report not later than December 31 of each even-numbered year.
- Allows the General Assembly to reject one or more of the final compensation amounts.
- Provides that the final compensation plan issued by the Commission takes effect July 1 of the following odd-numbered year except insofar as compensation amounts have been rejected by the General Assembly.
- Requires the Commission to create its *initial* final compensation plan not later than February 29, 2016, and provides that the compensation amounts therein take effect July 1, 2016, unless rejected by the General Assembly.

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\* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Specifies that the creation and operation of the Commission does not affect the compensation of nonjudicial elected public offices in municipal corporations and charter counties having home rule.
- Removes the prohibition against General Assembly members receiving "allowances or perquisites" in addition to a fixed compensation.
- Limits the prohibition against General Assembly members receiving in-term increases in compensation to apply only when the General Assembly has, during a member's term, rejected all or any portion of the Commission's final compensation plan.
- Removes the prohibition against compensation of judges of courts of record being diminished during a term of office and the prohibition against judges receiving "fees or perquisites."
- Eliminates the prohibition against a member of the General Assembly, during the member's term or for one year thereafter, from being appointed to a public office the compensation of which was increased during the member's term.
- Eliminates the prohibition against executive officers' compensation being increased or decreased during the period for which the officer was elected.

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## **CONTENT AND OPERATION**

The joint resolution proposes an amendment to the Ohio Constitution that establishes a Public Office Compensation Commission to review and set the compensation of elected public offices, subject to rejection by the General Assembly. The proposal is to be submitted to the electors at the general election to be held on November 3, 2015.

### **Duties of the Public Office Compensation Commission**

The Public Office Compensation Commission is required to meet each even-numbered year to review the current compensation of each elected public office in the state.<sup>1</sup> Currently, the General Assembly establishes, by law, the compensation of all officers,<sup>2</sup> of all executive officers,<sup>3</sup> and of justices of the Supreme Court and judges of the

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<sup>1</sup> Ohio Const., art. II, sec. 20a(B)(1).

<sup>2</sup> Ohio Const., art. II, sec. 20.

<sup>3</sup> Ohio Const., art. III, sec. 19.

courts of appeals, courts of common pleas, and divisions thereof, and of all courts of record established by law.<sup>4</sup> Under the proposal, the Commission, instead of the General Assembly, is to establish the compensation of all elected public offices.<sup>5</sup> When reviewing the current compensation of elected public offices, the Commission must consider factors provided by law, including the amount of compensation paid to similarly skilled individuals in the private sector, the amount of compensation paid to individuals in comparable elected public offices in other states, and the current financial condition of and within Ohio.<sup>6</sup>

After completing its review, the Commission must prepare, by vote of at least five of its members, a proposed compensation plan that sets forth the compensation amounts for each elected public office in the state, and must prepare a report of the proposed compensation plan. The Commission must present the proposed compensation plan and the report at not less than three public hearings in the state to obtain public input regarding the plan. After conducting the public hearings, the Commission must issue, by vote of at least five of its members, a final compensation plan. The Commission must prepare a report of the final compensation plan not later than the last day of December in each even-numbered year. When a proposed or final compensation plan increases or decreases the compensation amount of an elected public office by more than the lesser of 3% or the percentage increase, if any, in the consumer price index,<sup>7</sup> the Commission must include specific factors that support the increase or decrease in its accompanying report.<sup>8</sup>

### **Effective date of final compensation plan; rejection of compensation amounts by General Assembly**

The compensation amounts set forth in the final compensation plan for each elected public office take effect on the first day of July of the following odd-numbered year unless, before that day, the General Assembly, by a three-fifths vote of the members elected to each house, adopts a concurrent resolution rejecting one or more of the compensation amounts. In that event, only those compensation amounts not rejected by the General Assembly take effect on that date. If the General Assembly rejects a final compensation plan or portion thereof, a member of the General Assembly

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<sup>4</sup> Ohio Const., art. IV, sec. 6(B).

<sup>5</sup> Ohio Const., art. II, sec. 20a(B)(1).

<sup>6</sup> Ohio Const., art. II, sec. 20a(B)(1).

<sup>7</sup> Measured over the 12-month period that ends on the 30th day of September of the immediately preceding year, rounded to the nearest  $\frac{1}{10}$  of 1%.

<sup>8</sup> Ohio Const., art. II, sec. 20a(B)(1).



who, at the time the plan was voted on, voted or would have been entitled to vote on it, is not entitled to an increase in compensation for the duration of the member's term of office.<sup>9</sup>

### **In-term decrease in judges' compensation**

The compensation amount established in the compensation plan for a judicial office may be decreased during the officer's existing term *only if* both of the following conditions are met:

(1) The General Assembly passes a bill by a three-fifths vote of the members elected to each house that declares a state of fiscal emergency requiring an in-term decrease in compensation *and* decreases the compensation amount for every elected public office by the same percentage.

(2) The Governor signs the bill.<sup>10</sup>

### **Initial actions of the Commission**

The Commission must meet in 2015 to review the current compensation of each public office. The proposed and final compensation plans and the accompanying reports must be issued not later than February 29, 2016. The compensation amounts in the initial final compensation plan are to take effect July 1, 2016, unless rejected by the General Assembly as described above. Only those compensation amounts not rejected by the General Assembly take effect on that date. If the General Assembly rejects the initial final compensation plan, or a portion thereof, a member of the General Assembly who, at the time the plan was voted on, voted or would have been entitled to vote on it, is not entitled to an increase in compensation for the duration of the member's term of office.<sup>11</sup>

### **Membership of the Commission**

The Commission is to consist of nine members appointed as follows: two by the Governor, two by the President of the Senate, two by the Speaker of the House of Representatives, one by the legislative leader of the largest political party in the Senate of which the President is not a member, one by the legislative leader of the largest political party in the House of Representatives of which the Speaker is not a member, and one by the Chief Justice of the Supreme Court. The following individuals are not

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<sup>9</sup> Ohio Const., art. II, sec. 20a(B)(2).

<sup>10</sup> Ohio Const., art. II, sec. 20a(B)(3).

<sup>11</sup> Schedule I.

eligible to be appointed as a member of the Commission: (1) an officer or employee of the state or a political subdivision of the state, or a family member, as defined by statute, of an officer or employee of the state or a political subdivision of the state, (2) an individual who was a candidate for election to public office in the state within 12 months before appointment, or (3) an individual who engages during at least a portion of the individual's time to actively advocate legislation on behalf of another.

Members serve two-year terms and may not serve more than four consecutive terms. The Commission is to select its chairperson by a majority vote. Members do not receive compensation, but must be reimbursed for actual and necessary expenses incurred in the performance of Commission duties. Vacancies on the Commission are to be filled in the manner prescribed for the original appointment. A member may be removed from the Commission only by that member's designated appointing authority and only if it is found that the member is inefficient or derelict in the discharge of the member's duties.<sup>12</sup>

### **Initial appointments**

The term of an initial appointment to the Commission is to begin upon appointment and end December 31, 2017. If, by November 13, 2015, one or more appointments have not been made, a majority of the Commission members who have been appointed are to appoint, not later than November 15, 2015, a sufficient number of individuals so that the Commission consists of nine members. The Commission must give prompt notice of the appointments to the Governor, President and minority leader of the Senate, Speaker and minority leader of the House, and Chief Justice of the Supreme Court.<sup>13</sup>

### **Compensation of charter county or municipal elected officer unaffected**

The proposal specifies that the creation and operation of the Commission does not affect the compensation of a county officer elected under a county charter or the compensation of an officer of a municipality elected under the power of local self-government as exercised by a municipality under the Home Rule Amendment to the Ohio Constitution.<sup>14</sup>

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<sup>12</sup> Ohio Const., art II, sec. 20a(A).

<sup>13</sup> Schedule II.

<sup>14</sup> Ohio Const., art. II, sec. 20a(C); Ohio Const., art. X, secs. 3 and 4 (county home rule); Ohio Const., art. XVIII, secs. 3 and 7 (municipal home rule).

## Implementation by the General Assembly

The proposal provides that it may otherwise be implemented in the manner and to the extent provided by the General Assembly by law.<sup>15</sup>

## Miscellaneous

The Constitution currently prohibits the compensation of a judge of a court of record from being diminished in term. The proposal removes this prohibition. The proposal also removes the Constitutional prohibition against judges receiving "fees or perquisites."<sup>16</sup>

The Constitution also prohibits the compensation of members of the General Assembly from being changed in term. The proposal removes this prohibition as well.<sup>17</sup> But, as described above, it does specify that if the General Assembly rejects all or a portion of the Commission's final compensation plan, a member who, at the time the plan was voted on, voted or would have been entitled to vote on it, is not entitled to an increase in compensation during the member's term of office.<sup>18</sup>

The proposal eliminates the Constitutional prohibition against a member of the General Assembly being appointed to a public office, during the member's term or for one year thereafter, if the compensation of the office was increased during the member's term.<sup>19</sup>

Lastly, the proposal eliminates the prohibition against certain executive officers, during the period for which the officers were elected, from receiving an increase or decrease in compensation.<sup>20</sup>

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<sup>15</sup> Ohio Const., art. II, sec. 20a(D).

<sup>16</sup> Ohio Const., art. IV, sec. 6.

<sup>17</sup> Ohio Const., art. II, sec. 31.

<sup>18</sup> Ohio Const., art. II, sec. 20a(B)(2).

<sup>19</sup> Ohio Const., art. II, sec. 4.

<sup>20</sup> Ohio Const., art. III, sec. 19.

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## HISTORY

### ACTION

Introduced  
Reported, S. Finance

### DATE

02-02-15  
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**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**H. J. R. No. 2**

**Representatives Clyde, Curtin**

**Cosponsors: Representatives Antonio, Smith, K., Stinziano, Leland, Driehaus,  
Bishoff, Johnson, G., Celebrezze, Ashford, Fedor, Lepore-Hagan, Sheehy**

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**AJOINT RESOLUTION**

Proposing to enact Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9  
of Article XIX of the Constitution of the State of  
Ohio to revise the redistricting process for  
congressional districts.

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 3, 2015, a proposal to enact  
Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Article XIX of the  
Constitution of the State of Ohio to read as follows:

**ARTICLE XIX**

**Section 1. (A) The Ohio redistricting commission shall be  
responsible for the redistricting of this state for congress.  
The commission shall consist of the following seven members:**

**(1) The governor;**

**(2) The auditor of state;**



- (3) The secretary of state; 18
- (4) One person appointed by the speaker of the house of 19  
representatives; 20
- (5) One person appointed by the legislative leader of the 21  
largest political party in the house of representatives of which 22  
the speaker of the house of representatives is not a member; 23
- (6) One person appointed by the president of the senate; 24  
and 25
- (7) One person appointed by the legislative leader of the 26  
largest political party in the senate of which the president of 27  
the senate is not a member. 28
- The legislative leaders in the senate and the house of 29  
representatives of each of the two largest political parties 30  
represented in the general assembly, acting jointly by political 31  
party, shall appoint a member of the commission to serve as a 32  
co-chairperson of the commission. 33
- (B)(1) Unless otherwise specified in this article, a 34  
simple majority of the commission members shall be required for 35  
any action by the commission. 36
- (2)(a) Except as otherwise provided in division (B)(2)(b) 37  
of this section, a majority vote of the members of the 38  
commission, including at least one member of the commission who 39  
is a member of each of the two largest political parties 40  
represented in the general assembly, shall be required to do any 41  
of the following: 42
- (i) Adopt rules of the commission; 43
- (ii) Hire staff for the commission; 44
- (iii) Expend funds. 45

(b) If the commission is unable to agree, by the vote 46  
required under division (B) (2) (a) of this section, on the manner 47  
in which funds should be expended, each co-chairperson of the 48  
commission shall have the authority to expend one-half of the 49  
funds that have been appropriated to the commission. 50

(3) The affirmative vote of four members of the 51  
commission, including at least two members of the commission who 52  
represent each of the two largest political parties represented 53  
in the general assembly, shall be required to adopt any 54  
congressional district plan. For the purpose of this division, a 55  
member of the commission shall be considered to represent a 56  
political party if the member was appointed to the commission by 57  
a member of that political party or if, in the case of the 58  
governor, the auditor of state, or the secretary of state, the 59  
member is a member of that political party. 60

(C) At the first meeting of the commission, which the 61  
governor shall convene only in a year ending in the numeral one, 62  
except as provided in Sections 6 and 7 of this article, the 63  
commission shall set a schedule for the adoption of procedural 64  
rules for the operation of the commission. 65

The commission shall release to the public a proposed 66  
congressional district plan for the boundaries for the 67  
prescribed number of congressional districts as apportioned to 68  
the state pursuant to Section 2 of Article I of the Constitution 69  
of the United States. The commission shall draft the proposed 70  
plan in the manner prescribed in this article. Before adopting, 71  
but after introducing, a proposed plan, the commission shall 72  
conduct a minimum of three public hearings across the state to 73  
present the proposed plan and shall seek public input regarding 74  
the proposed plan. All meetings of the commission shall be open 75  
to the public. Meetings shall be broadcast by electronic means 76

of transmission using a medium readily accessible by the general public.

The commission shall adopt a final congressional district plan not later than the first day of September of a year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Four weeks after the adoption of a congressional district plan, the commission shall be automatically dissolved.

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this article.

Section 2. Each congressional district shall be entitled to a single representative in the United States house of representatives in each congress.

Section 3. (A) The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number of congressional districts apportioned to the state pursuant to Section 2 of Article I of the Constitution of the United States, and the quotient shall be the congressional ratio of representation for ten years next succeeding such redistricting.

(B) A congressional district plan shall comply with all of the requirements of division (B) of this section.

(1) The population of each congressional district shall be as equal to the congressional ratio of representation as practicable.

(2) Any congressional district plan adopted by the 106  
commission shall comply with all applicable provisions of the 107  
constitutions of Ohio and the United States and of federal law. 108

(3) Every congressional district shall be composed of 109  
contiguous territory, and the boundary of each district shall be 110  
a single nonintersecting continuous line. 111

(C) Congressional districts shall be created and numbered 112  
in the following order of priority, to the extent that such 113  
order is consistent with the foregoing standards: 114

(1) Proceeding in succession from the largest to the 115  
smallest, each county containing population greater than one 116  
congressional ratio of representation shall be divided into as 117  
many congressional districts as it has whole ratios of 118  
representation. Any fraction of the population in excess of a 119  
whole ratio shall be a part of only one adjoining congressional 120  
district. 121

(2) Each county containing population equal to the 122  
congressional ratio of representation shall be designated a 123  
congressional district. 124

(3) The remaining territory of the state shall be divided 125  
into congressional districts by combining the areas of counties, 126  
municipal corporations, and townships. Where feasible, no county 127  
shall be split more than once. 128

(D) (1) A county, municipal corporation, or township is 129  
considered to be split if any contiguous portion of its 130  
territory is not contained entirely within one district. 131

(2) Where the requirements of divisions (B) and (C) of 132  
this section cannot feasibly be attained by forming a 133  
congressional district from whole municipal corporations and 134

townships, the district shall be formed by splitting not more 135  
than one municipal corporation or township. If the commission 136  
must choose between multiple municipal corporations or townships 137  
for the purpose of splitting a municipal corporation or township 138  
under this division, the municipal corporation or township with 139  
the smallest population shall be split. 140

(E)(1) If it is not possible for the commission to comply 141  
with all of the requirements of divisions (B), (C), and (D) of 142  
this section in drawing a particular congressional district, the 143  
commission shall take the first action listed below that makes 144  
it possible for the commission to draw that district: 145

(a) Notwithstanding division (D)(2) of this section, the 146  
commission shall create the district by splitting two municipal 147  
corporations or townships. If the commission must choose between 148  
more than two municipal corporations or townships for the 149  
purpose of splitting municipal corporations and townships under 150  
this division, the municipal corporations or townships shall be 151  
split in order of population, proceeding from the smallest to 152  
the largest. 153

(b) Notwithstanding division (C)(2) of this section, the 154  
commission shall create the district by splitting, once, a 155  
single county that contains a population equal to the 156  
congressional ratio of representation. 157

(c) Notwithstanding division (C)(1) of this section, the 158  
commission shall create the district by including in two 159  
districts portions of the territory that remain after a county 160  
that contains a population of more than one congressional ratio 161  
of representation has been divided into as many congressional 162  
districts as it has whole ratios of representation. 163

(2) If the commission takes an action under division (E) 164

(1) of this section, the commission shall include in the 165  
congressional district plan a statement explaining which action 166  
the commission took under that division and the reason the 167  
commission took that action. 168

(3) If the commission complies with divisions (E) (1) and 169  
(2) of this section in drawing a district, the commission shall 170  
not be considered to have violated division (C) (1), (C) (2), or 171  
(D) (2) of this section, as applicable, in drawing that district, 172  
for the purpose of an analysis under division (D) of Section 7 173  
of this article. 174

**Section 4.** The Ohio redistricting commission shall attempt 175  
to draw a congressional district plan that meets all of the 176  
following standards: 177

(A) No congressional district plan shall be drawn 178  
primarily to favor or disfavor a political party. 179

(B) The statewide proportion of districts whose voters, 180  
based on statewide state and federal partisan general election 181  
results during the last ten years, favor each political party 182  
shall correspond closely to the statewide preferences of the 183  
voters of Ohio. 184

(C) Congressional districts shall be compact. 185

Nothing in this section permits the commission to violate 186  
the district standards described in Section 2, 3, or 5 of this 187  
article. 188

**Section 5.** Notwithstanding the fact that boundaries of 189  
counties, municipal corporations, and townships within a 190  
district may be changed, district boundaries shall be created by 191  
using the boundaries of counties, municipal corporations, and 192  
townships as they exist at the time of the federal decennial 193

census on which the redistricting is based, or, if unavailable, 194  
on such other basis as the general assembly has directed. 195

**Section 6.** (A) (1) If the Ohio redistricting commission 196  
fails to adopt a final congressional district plan not later 197  
than the first day of September of a year ending in the numeral 198  
one, in accordance with Section 1 of this article, the 199  
commission shall introduce a proposed congressional district 200  
plan by a simple majority vote of the commission. 201

(2) After introducing a proposed congressional district 202  
plan under division (A) (1) of this section, the commission shall 203  
hold a public hearing concerning the proposed plan, at which the 204  
public may offer testimony and at which the commission may adopt 205  
amendments to the proposed plan. Members of the commission 206  
should attend the hearing; however, only a quorum of the members 207  
of the commission is required to conduct the hearing. 208

(3) After the hearing described in division (A) (2) of this 209  
section is held, and not later than the fifteenth day of 210  
September of a year ending in the numeral one, the commission 211  
shall adopt a final congressional district plan, either by the 212  
vote required to adopt a plan under division (B) (3) of Section 1 213  
of this article or by a simple majority vote of the commission. 214

(B) If the commission adopts a final congressional 215  
district plan in accordance with division (A) (3) of this section 216  
by the vote required to adopt a plan under division (B) (3) of 217  
Section 1 of this article, the plan shall take effect upon 218  
filing with the secretary of state and shall remain effective 219  
until the next year ending in the numeral one, except as 220  
provided in Section 7 of this article. 221

(C) (1) (a) Except as otherwise provided in division (C) (1) 222  
(b) of this section, if the commission adopts a final 223

congressional district plan in accordance with division (A) (3) 224  
of this section by a simple majority vote of the commission, and 225  
not by the vote required to adopt a plan under division (B) (3) 226  
of Section 1 of this article, the plan shall take effect upon 227  
filing with the secretary of state and shall remain effective 228  
until two general elections for the United States house of 229  
representatives have occurred under the plan. 230

(b) If the commission adopts a final congressional 231  
district plan in accordance with division (A) (3) of this section 232  
by a simple majority vote of the commission, and not by the vote 233  
required to adopt a plan under division (B) of Section 1 of this 234  
article, and that plan is adopted to replace a plan that ceased 235  
to be effective under division (C) (1) (a) of this section before 236  
a year ending in the numeral one, the plan adopted under this 237  
division shall take effect upon filing with the secretary of 238  
state and shall remain effective until a year ending in the 239  
numeral one, except as provided in Section 7 of this article. 240

(2) A final congressional district plan adopted under 241  
division (C) (1) (a) or (b) of this section shall include a 242  
statement explaining what the commission determined to be the 243  
statewide preferences of the voters of Ohio and the manner in 244  
which the statewide proportion of districts in the plan whose 245  
voters, based on statewide state and federal partisan general 246  
election results during the last ten years, favor each political 247  
party corresponds closely to those preferences, as described in 248  
division (B) of Section 4 of this article. At the time the plan 249  
is adopted, a member of the commission who does not vote in 250  
favor of the plan may submit a declaration of the member's 251  
opinion concerning the statement included with the plan. 252

(D) After a congressional district plan adopted under 253  
division (C) (1) (a) of this section ceases to be effective, and 254



not earlier than the first day of July of the year following the 255  
year in which the plan ceased to be effective, the commission 256  
shall be reconstituted as provided in Section 1 of this article, 257  
convene, and adopt a new congressional district plan in 258  
accordance with this article, to be used until the next time for 259  
redistricting under this article. The commission shall draw the 260  
new congressional district plan using the same population and 261  
county, municipal corporation, and township boundary data as 262  
were used to draw the previous plan adopted under division (C) 263  
of this section. 264

Section 7. (A) The supreme court of Ohio shall have 265  
exclusive, original jurisdiction in all cases arising under this 266  
article. 267

(B) In the event that any section of this constitution 268  
relating to redistricting, any congressional district plan made 269  
by the Ohio redistricting commission, or any district is 270  
determined to be invalid by an unappealed final order of a court 271  
of competent jurisdiction then, notwithstanding any other 272  
provisions of this constitution, the commission shall be 273  
reconstituted as provided in Section 1 of this article, convene, 274  
and ascertain and determine a congressional district plan in 275  
conformity with such provisions of this constitution as are then 276  
valid, to be used until the next time for redistricting under 277  
this article in conformity with such provisions of this 278  
constitution as are then valid. 279

(C) (1) No court shall order, in any circumstance, the 280  
implementation or enforcement of any congressional district plan 281  
that has not been approved by the commission in the manner 282  
prescribed by this article. 283

(2) No court shall order the commission to adopt a 284

particular congressional district plan or to draw a particular  
district.

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(3) If the supreme court of Ohio determines that a  
congressional district plan adopted by the commission does not  
comply with the requirements of Section 2, 3, or 5 of this  
article, the available remedies shall be as follows:

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(a) If the court finds that the plan contains one or more  
isolated violations of those requirements, the court shall order  
the commission to amend the plan to correct the violation.

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(b) If, in considering a plan adopted under division (C)  
of Section 6 of this article, the court determines that both of  
the following are true, the court shall order the commission to  
adopt a new congressional district plan in accordance with this  
article:

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(i) The plan significantly violates those requirements in  
a manner that materially affects the ability of the plan to  
contain districts whose voters favor political parties in an  
overall proportion that corresponds closely to the statewide  
political party preferences of the voters of Ohio, as described  
in division (B) of Section 4 of this article.

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(ii) The statewide proportion of districts in the plan  
whose voters, based on statewide state and federal partisan  
general election results during the last ten years, favor each  
political party does not correspond closely to the statewide  
preferences of the voters of Ohio.

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**Section 8.** If a court of competent jurisdiction issues an  
unappealed final order that the general assembly must be  
responsible for the redistricting of this state for congress,  
all of the following shall apply:

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(A) The general assembly shall adopt a final congressional 314  
district plan not later than the first day of September of a 315  
year ending in the numeral one. 316

(B) The congressional district plan shall comply with the 317  
requirements of Sections 2, 3, and 5 of this article. 318

(C) The general assembly shall attempt to comply with the 319  
standards described in Section 4 of this article in drawing the 320  
congressional district plan. 321

(D) Section 7 of this article shall apply to a 322  
congressional district plan adopted by the general assembly. 323

Section 9. The various provisions of this article are 324  
intended to be severable, and the invalidity of one or more of 325  
such provisions shall not affect the validity of the remaining 326  
provisions. 327

EFFECTIVE DATE 328

If adopted by a majority of the electors voting on this 329  
proposal, Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of Article XIX 330  
of the Constitution of the State of Ohio enacted by this 331  
proposal take effect January 1, 2021. 332