



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE LEGISLATIVE BRANCH & EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, MARCH 12, 2015

Call to Order:

Chair Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 11:00 a.m.

Members Present:

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

Approval of Minutes:

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

Presentation:

Term Limits

Rob Walgate

Vice President

American Policy Roundtable

Rob Walgate, Vice President of the American Policy Roundtable made a presentation on term limits for Ohio legislators.

Mr. Walgate provided a history of how term limits language originated in the Ohio Constitution in 1992, concessions that were made in favor of the legislature at that time, and the risk of upsetting the careful balance of existing language.

Mr. Walgate identified four concessions which were made when the constitutional provisions on term limits were added to the constitution and which he believes favored the legislature:

- 1) Public opinion and a majority of the widely diverse coalition of supporting organizations favored a total of six years in office; however,

the committee agreed to eight years to maintain a proper balance of powers between the legislature, members of the executive branch, and the governor.

- 2) Public opinion wanted immediate implementation of term limits; however, the committee chose to grandfather the existing legislature so no years previously served would be held against then current legislators.
- 3) Public opinion, and the original consensus of the committee, was to not permit lawmakers to move from one chamber of the legislature to the other and by so doing serve more than a total of eight years in the legislature. Language was drafted with “eight years and out” provision. The committee however avoided this language, which allowed elected officials to double the eight-year term in office, provided they move to the other chamber. In addition, the committee left such movement open-ended so a lawmaker could repeat the process indefinitely if the voters so chose.
- 4) The fourth concession allowed for a member serving a partial term to not have that term count against the eight-year limit. This was done to prevent penalizing anyone willing to step into office on behalf of someone unable to complete the term.

Mr. Walgate said it is important to acknowledge the careful balance of existing language. Several of these provisions have made Ohio term limits laws most effective and permitted a good number of lawmakers the opportunity to serve for a lifetime in the legislature. He also said this debunks the myth that seniority and institutional knowledge have disappeared from the Ohio legislature.

Mr. Walgate continued by saying that regarding the existing proposals, the people of Ohio are not asking for these changes; no petitions have been drawn nor have any signatures been gathered. He believes this is being done in the interest of politicians and their lobbying allies who are advocating these changes, which uniquely serve them.

Mr. Walgate expressed his concern that this amendment would be placed on the ballot at taxpayer expense and absent taxpayer request. He also stated his concerns with this issue being on the ballot in an off-election year, where turnout is typically low, instead of on the ballot during the presidential election, where turnout is much higher.

Committee member Sen. Charleta Tavares asked how many residents of the state of Ohio participated in the final decision to implement term limits.

Mr. Walgate replied that, in the 1990s, they had thousands of petitions. Today we are not hearing a consensus of the will of the people that it should be changed.

Sen. Tavares then asked if it was a majority of the registered voters that voted in that election. It is usually a small vocal minority that participates.

Mr. Walgate replied the high turnout was because it was a presidential election year. If you want a fair assessment, that is as close as you might get.

Committee member Herb Asher asked Mr. Walgate if what he described as those who want change as “career politicians and lobbying allies,” then does he believe newspaper editorial boards are lobbying allies or that the League of Women Voters are lobbying allies? He continued by saying this was an interesting way of describing those groups, and that the tone doesn’t reflect broader concerns. Mr. Asher said that as he views American politics, he does not like the argument that the majority wants this. He further commented the more discussion you have the more you realize it is not the kind of open-and-shut discussion as Mr. Walgate portrays it.

Mr. Walgate apologized for his tone. He said, when there is talk about amending the constitution, undoing term limits causes concern because much effort went into this.

Mr. Asher said if one goes back to 1992, there was an anti-incumbent, anti-democratic tone regarding the U.S. House of Representatives. However, the groups that carried this were the groups that were legitimately concerned, but very ideological. It was a partisan and ideological group, but they spoke nicely about how bad career politicians were. This wasn’t the rank and file citizenry rising up in arms. The reality Mr. Walgate describes is not the one Mr. Asher recalls.

Mr. Walgate said the people who collected the signatures were the general citizens rather than paid signature gatherers. The threat of constant turnover in the General Assembly has not played out.

Committee member Rep. Mike Curtin commented all term limits are not created equal; there is variation among the states. What is the ideal, does the roundtable have a number? Is there a model that Mr. Walgate’s organization supports?

Mr. Walgate replied that the model they look at is the 1992 amendment. His organization has not complained about twenty-year veterans in the General Assembly. He said the organization does not have a platform that everyone should follow.

Sen. Coley said he is aware Mr. Walgate’s organization does work in Florida and Tennessee. Florida’s term limits are similar to Ohio, Tennessee’s are not. Has Mr. Walgate seen a difference in the quality of legislators in these states? What is the experience in the three different states?

Mr. Walgate replied all state legislatures operate differently. In Florida, the length of their session is very short.

Committee member Bob Taft asked if in those states without term limits, what bad things are happening without term limits that might not be happening if term limits were in place?

Mr. Walgate replied that leadership in Ohio in the 70s and 80s was static. It was not a bad thing to see the legislature change. It is not true that we will lose our institutional knowledge. How important is it if, as what happened in Ohio recently, we pass up someone who has institutional knowledge to be speaker and pick someone else?

Mr. Walgate also said he hasn't found a state where term limits have been repealed by the people.

Ms. Davidson commented the states that do not have limits are not rushing to add them and some states have repealed. With no huge movement on this issue, has public opinion shifted?

Mr. Walgate replied that repeals have been by the courts, not the legislatures. In Ohio, we had citizens who came together to work to get this on the ballot. He is not seeing Ohio citizens working together on extending or eliminating term limits.

Ms. Davidson said if the Commission wants to do this it ultimately would involve people voting.

Mr. Walgate replied this issue was cherry-picked out of the constitution, unlike the other provisions. Shouldn't we look at other issues? To which Ms. Davidson replied we are here to look at the whole constitution.

Sen. Tavares said the whole initiation of term limits was led by an entity, so to say that the people were initiating this, without the efforts of an entity, is not exactly accurate. Whether it was his organization or others, it was still an effort by a larger organization. Sen. Tavares remarked that she still wants to know if it was a majority of the registered voters that made the decision, which makes a huge difference for her.

Mr. Walgate said he will get the numbers for her. When we look at the early 90s it was much different then as there were no paid signature gatherers. Sen. Tavares remarked that now, not every effort utilizes paid signature gatherers.

Mr. Asher said he agrees that signatures were collected by people unpaid in 1992. But the history of this is that there was a political movement that took advantage of distaste for the U.S. Congress, particularly the House of Representatives. There was clear partisan and ideological motivation in that Democrats held the House for many years and had grown arrogant. The irony was that a lot of other office holders got swept up in this. Who got protected was the U.S. Congress when the U.S. Supreme Court ruled that state constitutions could not impose term limits on federal legislators. It is misleading to suggest this was a spontaneous rejection of long term incumbency. Ms. Davidson's comments are appropriate; perhaps now giving Ohioans a chance to revisit their decision is a reasonable thing. They may confirm it. But there are many more people critical of term limits other than career politicians and their lobbying allies.

Mr. Asher continued saying the point of the 1992 issue was that the U.S. Congress had been arrogant; many Republicans who ran in 1994 when the Republicans took control had pledged that they would only serve three terms. To demonstrate how political all of this was, many of those members who took that pledge discovered that seniority has its benefits and decided to run again and if their voters re-elected them, that it is okay. That was a politicized environment that was partisan and ideological. Today, we see people from all backgrounds who think it is worthwhile to revisit the issue.

Mr. Walgate said the fact that there are good people who are term limited doesn't matter; the nightmare that was predicted to be the outcome of term limits hasn't happened.

Chair Mills commented that he takes exception to the "cherry-pick" term. The redistricting discussion in this committee led to it being on the ballot this year. We have a good system for redistricting reform going on to the ballot, and this committee played a role.

Mr. Walgate apologized for the offense. He emphasized that no one understands the need for the proposed extension of term limits. It will create an imbalance of power, and his organization doesn't see the need for it.

Report and Recommendation:

Executive Director Steven C. Hollon then presented two versions of a report and recommendation for Article II, Section 2 on term limits.

Chair Mills asked if the committee had any technical questions, and no one did. He then asked for public comment. Carolyn Harding, a concerned citizen, asked to speak. She questioned why representatives have two-year rather than four-year terms. She asked the committee to consider four-year terms for representatives. She does like term limits because they give other people voices, but she likes four-year terms for each chamber.

Committee Discussion:

Election and Term of State Legislators

The committee then held a discussion among members. Chair Mills noted this was the first presentation of the report and recommendation. The topic of term limits will be on the agenda for the April meeting, at which time he expects a formal vote.

Committee member Kathleen Trafford asked whether anyone knows why it is only two years for representatives. Mr. Asher answered that there has been traditionally the notion of the House being "the people's house," and House members having to go back to the electorate more frequently seemed to fit that notion. The Senate has been viewed as a more elite or prestigious organization. There has been a different methodology for selecting U.S. Senators historically, with senators representing geography and representatives representing the people. Other states have followed this model.

Sen. Coley remarked the House always feels that, because an election is always looming, representatives tend to be more sensitive to the concerns of the district and more susceptible to strong feelings on bills. The Senate, by contrast, is viewed as being more deliberative because it has the time. The Senate is considered as having a better opportunity to deal with priorities of citizens because it does not always have to go with the flavor of the day.

Sen. Tavares observed that members of the House stay in touch with the electorate when they have to run every two years. When members know they have four years, there is a longer period of time and the people do not hold senators accountable as frequently; the electorate has four

years to forget. With a two-year term, the voters will remember what the representative did or did not do.

Ms. Harding commented that this gives the lobbyists more power as well. She believes this should be examined, although she appreciates that two-year terms do keep representatives in touch with the people. She believes the lobbyists see the legislators more often than the people do.

Sen. Tavares disagreed saying it is wrong to stereotype legislators because they are individuals, and handle their responsibilities in different ways.

Chair Mills then asked whether anyone had opinions on the options reflected in the two versions of the report and recommendation.

Committee member Rep. Mike Curtin prefaced his remarks by saying that he is speaking for himself, rather than in his legislative capacity because the House Democratic caucus has not discussed this issue. He said that selecting Option One, which gives all legislators 12 successive years, reduces the likelihood that voters will approve it as it looks to be self-serving. He predicted that if the proposal is to extend the terms of current members, it will be pounded by editorial boards and “we walk into a buzz saw.” He said, over the years, polls have shown that two thirds of people think term limits are a good thing and wouldn’t repeal them. That majority hasn’t changed much. Rep. Curtin continued by saying the Commission will have a big educational campaign ahead of it if Option One goes forward. He would vote for Option One, not Option Two. He said that the state needs redistricting reform and this should be the primary goal. It would endanger redistricting reform to put Option One on the ballot in November.

Ms. Davidson said she agrees with Rep. Curtin to a certain extent. But she said the committee would step on its own argument by applying the extension only to new legislators. She said the justification for extending the limits is to retain experience in the legislature. Not applying the extension to current legislatures defeats the purpose because those experienced people will be out. When term limits took effect in the 1990s, Ohio lost 700 years of experience in the legislature. If we really believe extending the limits is a good thing, limiting the extension to newly elected members will eliminate a lot of members whom we have an opportunity to preserve.

Sen. Tavares said she agrees with Rep. Curtin that it would be self-serving to put the term limit issue - regardless of which option - on the ballot before we get the redistricting proposal through; redistricting has to be the first step. She remarked that the committee has not discussed timing. Does it have to go on the ballot in this next election?

Rep. Curtin said if redistricting passes this November, and Option One goes on the 2016 ballot, it would be a whole different thing.

Chair Mills said his intent is to recommend Option One or Option Two to the Commission and then to the General Assembly, which can put it on the ballot whenever they want to. The discussion and decision in this committee is a first step.

Dr. Asher asked whether it was anticipated that the committee would make a recommendation about the timing. He observed that both options get greater credibility if the committee already has taken redistricting to the electorate and that gets approved.

Chair Mills said there will be a second discussion of this at the April 9th committee meeting, indicating there will hopefully be a vote at that meeting.

SJR 1 – Public Office Compensation Commission

Chair Mills then raised the issue of whether Ohio should have a Public Office Compensation Commission, drawing attention to a memorandum by Commission staff regarding these commissions as they have been created in other states. Although the committee will not discuss this topic today due to time, he asked the committee to review the memo, for discussion at the next committee meeting. He said the committee will solicit testimony from interested parties at the next meeting on this topic.

Mr. Hollon acknowledged the work of Ohio State University Moritz College of Law Intern Hailey Akah in creating the pay commission memorandum.

Other Discussion

Chair Mills welcomed three new members to the committee: Representatives Mike Curtin and Nathan Manning, and Herb Asher.

Chair Mills said monthly committee meetings will continue for the foreseeable future.

Adjournment:

With no further business to come before the committee, the meeting adjourned at 12:30 p.m.

Attachments:

- Notice
- Agenda
- Roll call sheet
- Biographical sketch of Rob Walgate
- Prepared remarks of Rob Walgate

Approval:

These minutes of the March 12, 2015 meeting of the Legislative Branch and Executive Branch Committee were approved at the April 9, 2015 meeting of the committee.

/s/ Frederick E. Mills

/s/ Paula Brooks

Frederick E. Mills, Chair

Paula Brooks, Vice Chair