



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

Legislative Branch and Executive Branch Committee

Frederick E. Mills, Chair
Hon. Paula Brooks, Vice-chair

July 14, 2016

Ohio Statehouse
Room 018

OCMC Legislative Branch and Executive Branch Committee

Chair Mr. Fred Mills
Vice-chair Ms. Paula Brooks
Mr. Herb Asher
Sen. Bill Coley
Rep. Mike Curtin
Ms. Jo Ann Davidson
Rep. Robert McColley
Governor Bob Taft
Ms. Petee Talley
Sen. Charleta Tavares
Ms. Kathleen Trafford

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION
LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

THURSDAY, JULY 14, 2016
1:30 P.M.
OHIO STATEHOUSE ROOM 018

AGENDA

I. Call to Order

II. Roll Call

III. Approval of Minutes

➤ Meeting of May 12, 2016

[Draft Minutes – attached]

IV. Reports and Recommendations

➤ None Scheduled

V. Presentations

➤ “Grouping of Article II Sections”

Steven C. Hollon
Executive Director

[Memorandum by Steven C. Hollon titled “Grouping of Article II Sections by Topic for Review by the Committee,” dated April 7, 2016 – attached]

VI. Committee Discussion

- The committee vice-chair will lead discussion regarding how the committee wishes to organize its efforts in reviewing the various sections of Article II as outlined in the memorandum by Executive Director Steven C. Hollon.

VII. Next Steps

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

[Planning Worksheet – attached]

VIII. Old Business

IX. New Business

X. Public Comment

XI. Adjourn



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, MAY 12, 2016

Call to Order:

Chair Fred Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 3:04 p.m.

Members Present:

A quorum was present with Chair Mills, Vice-chair Brooks, and committee members Asher, Coley, Curtin, McColley, Taft, Talley, and Tavares in attendance.

Approval of Minutes:

The minutes of the April 14, 2016 meeting of the committee were approved.

Report and Recommendation:

Chair Mills provided a status update on a report and recommendation for a constitutional provision relating to Congressional redistricting. He said a couple of working group sessions have occurred in the last month, and that he thought the committee was making progress on a consensus opinion; however, there is "no consensus as of today." He noted that the committee was sent a proposal by Senator Charleta Tavares in the form of a revised joint resolution that she would like to discuss. Observing that there has been a good faith effort on the part of all parties, including both the subcommittee and the working group, he called on Sen. Tavares to discuss her proposal.

Sen. Tavares agreed with Chair Mills, describing that the subcommittee had worked with individuals representing good government groups in trying to address differences of opinion about what the proposal should look like. She said the proposal designated "LSC 131 157-2" from the Legislative Service Commission (LSC) is fundamentally what was accepted by voters as Issue 1, involving legislative redistricting, in November 2015. She said the proposal has evolved due to the discussions that have occurred.

She noted that one of the issues the two sides have not agreed on is the number of splits of governmental units. She said some believe the fewer the splits, the less likely for there to be gerrymandering. She said the goal was to get as few splits as possible to ensure that communities that were similar would be maintained as much as possible. But, she said, “we are at an impasse at this point in time,” although it is “not for a lack of trying.” She said there were proposals from individuals on the subcommittee as well as from interested parties “who tried to work with us to ensure that we had a fair representational plan.”

Chair Mills then recognized Richard Gunther, professor emeritus of political science at the Ohio State University, who provided remarks about the status of negotiations.

Prof. Gunther said he strongly supported LSC 131 0157, but recommended that the committee consider two amendments being proposed in LSC 131 0157-2 in an effort to close the gap and move to a bipartisan consensus.

He said LSC 131 0157-2 eliminates technical flaws and clarifies and simplifies the language and structure of the proposal.¹ He noted two key amendments that were proposed by Sen. Tavares in February 2016 had been removed, “representing significant concessions in the bargaining process.” He said one amendment would have protected from splits counties with populations greater than 30 percent of a ratio of representation, while the other would have counted as splits the separation of non-contiguous township fragments into different districts.

He noted that, while no full agreement was reached within the working group, consensus appeared to have been established concerning some key issues, and the areas of disagreement were effectively reduced to three. He said the first issue is that of non-contiguous township fragments, which he said LSC 131 0157-2 addresses and resolves.

Identifying a second area of disagreement as “easily solvable,” Prof. Gunther said that issue involves the protection from splits of counties with populations between 50 percent and 100 percent of a ratio of representation. Noting that Jeff Jacobson had objected to this classification as an impediment to map drawing, particularly in Northeast Ohio, Prof. Gunther said this problem could be remedied by limiting this protection to counties also including a city whose population is greater than 15 percent of a ratio of representation. He proposed an amendment that would state:

Each county containing a population of more than fifty percent, but less than one hundred percent of one congressional ratio of representation which also contains a city of more than 15 percent of one congressional ratio of representation shall be included in only one congressional district.

Prof. Gunther identified a third area of disagreement as involving the number of allowable splits. He said, from a good government perspective, that the number of splits should be kept to a minimum. Asserting that the splitting of counties and cities violates the principle of community representation, Prof. Gunther said the larger the number of splits, the more opportunities to

¹ A copy of the draft of LSC 131 0157 -2 is provided as Attachment A.

divide communities in the pursuit of favoring one party over another. He said, while sufficient flexibility must be given to map-drawers, keeping the permissible number of splits low is the best protection against gerrymandering. He said the current draft allows for a maximum of one county split and one municipal or township split per Congressional district. He commented that, other things being equal, using that model would mean at least 72 of Ohio counties would remain whole. He further noted that viable maps can be drawn which allow fewer splits than the 16 that would be allowed under the current proposal, using as an example two previous statewide map-drawing competitions, in which ordinary citizens submitted 19 maps that included 13 or fewer splits; and eight maps that included nine or fewer splits.

Prof. Gunther noted that the working group was divided over what should be considered the maximum number of allowable splits, with preferences ranging between maintaining a strict limit of no more than one county split and one municipal/township split per district (a maximum total of 16 of each type statewide), and maintaining a limit of 1.5 county splits and 1.75 municipal/township splits per district. He said he regards the latter preference as much too high. Nevertheless, he said the key to reaching a bipartisan consensus in support of redistricting reform lies in reaching some kind of compromise between those two extremes, urging the committee to explore this option.

Senator Bill Coley asked about the map-drawing competition, wondering how many competitors met the “one man one vote” objective. Prof. Gunther said all maps had to include at least one majority and one minority district. He added that the United States Supreme Court recently ruled in *Tennant v. Jefferson Cty. Comm.*, 567 U.S. ___, 133 S.Ct. 3, 5 (2012), that a deviation of 0.79 is perfectly legitimate if the interest is to pursue other goals in keeping communities intact.

Sen. Coley expressed that no map matched what could be regarded as a perfect split. Speaking from the audience, Catherine Turcer, policy analyst for Common Cause Ohio, said that one map actually satisfied that goal as well as meeting the majority/minority split requirement.

Chair Mills then recognized Jeff Jacobson, a member of the Commission who participated in the working group consideration of the issue.

Mr. Jacobson testified that, in addition to being a current member of the Ohio Constitutional Modernization Commission, his experience includes 16 years as a member of the Ohio House and Senate. He added that, in the 130th General Assembly, he was the primary Republican negotiator for H.J.R. 12, a bipartisan joint resolution for legislative redistricting reform that culminated in the passage of Issue 1 on the November 2015 ballot.

He explained the reason that Issue 1 only dealt with state legislative redistricting, rather than Congressional redistricting, was that Republican negotiators were concerned that including Congress would sink chances of getting legislative redistricting through the General Assembly and approved by the voters. He said he had promised at the time that he would be back to address bipartisan reform of Congressional districts, and has been working with the committee to consider options for Congressional redistricting reform.

Mr. Jacobson said he is pleased to see that proposals under consideration retain the Issue 1 framework. However, he said there are two serious deviations from the bipartisan spirit of Issue

1. He noted he had raised his concerns in emails to members of the committee, observing that Chair Mills had formed a subcommittee to work through the areas of disagreement.

He said Republicans joined those discussions in good faith and attended several “working group” meetings with Democrats and Prof. Gunther, who was representing the “good government” groups. He said the last working group meeting was held four weeks ago, and Republicans had been awaiting a reaction from the other side to compromises that had been put forward at the end of that meeting. He said no response to the last proposal was forthcoming until yesterday, when an email was sent with a new proposal.

Mr. Jacobson explained there were several versions that had been worked on and discussed as negotiators sought a bipartisan solution; however, the latest proposal in front of the committee does not contain important elements of those prior versions, but is the same amendment negotiators started with several months ago. He said, “while Republicans offered compromise after compromise in an attempt to reach agreement, every single proposal was rejected. Not once did the negotiators from the other side give an inch – other than the one time they said, ‘we will do it your way when both sides agree, but our way when they can’t agree.’ That is not compromise, that is not bipartisanship, and that is not at all how we forged Issue 1.”

He then focused on the proposal on the table, indicating it deviates in two ways from Issue 1.

First, he said, the proposal requires that counties with populations greater than half a district cannot be split, but allows any other county to be split. According to Mr. Jacobson, the proposal creates an imbalance of power that favors heavily-Democratic urban centers at the expense of suburban and rural voters in three ways: (1) suburban and rural residents in large counties are required to be kept in the same districts with city residents who outvote them; (2) by forcing those suburban and rural voters to be included with urban centers, the proposal artificially raises the voting power of these Democratic-leaning urban centers at the expense of the rest of the state; and, (3) the proposal provides no protection whatsoever against gerrymandering for residents of smaller counties.

He explained, further, that while the six largest counties containing half of Ohio’s population have special protections, there is nothing to prevent the other half living in the remaining 82 other counties from being assigned, county by county, to districts with no regard to enhancing or even keeping together their voting power. He said, while northeast Ohio has protection, northwestern, southeastern, north central, southern, and western Ohio have no such protection.

Contrasting the proposal with the language in Issue 1, he noted Issue 1 did not give any special protection to counties. Instead, it required that the splitting of large cities be minimized, but gave freedom to line drawers to combine cities and townships to create districts, without regard to most county boundaries. He said cities and townships are the building blocks of Issue 1.

Mr. Jacobson said Republicans first proposed maintaining Issue 1’s rules, offering to reduce Issue 1’s intactness threshold for cities and townships. He added Republicans, in search of a bipartisan solution, offered a compromise that would allow most of the large counties to have some special treatment, as well as offering protection for cities on top of that county protection. He said those options were rejected without any compromise being offered.

Mr. Jacobson noted that he is not referring to the very largest counties that have populations so large that an entire district or more could be drawn from that county alone. He said both Issue 1 and this proposal retain that concept from the old 1967 constitutional amendment.

He continued that, if gerrymandering is the splitting of voting blocs into smaller pieces and combining them in ways that minimizes the impact of some votes, this proposal gerrymanders suburban residents of large counties and fails to provide any protection to small county residents. He added, while this proposal does not allow more than one of those small counties to be split per district, that measure does not prevent gerrymandering, noting “you don’t need to split a small county to gerrymander it – you only have to assign these small counties to districts where they have little impact. The gerrymandering happens because small counties can be assigned to districts however the line drawers wish.” Using a Central Ohio example, he said residents of Dublin in Franklin County would be outvoted by their neighbors in Columbus, while residents of Dublin in Union or Delaware County have no protections whatsoever. He said, if that plan is followed, half of Ohioans residing in counties that mostly favor Republicans may be gerrymandered under this proposal, while the other half residing in counties that mostly favor Democrats must be kept intact. He commented that, “if either Representative Vernon Sykes or I had insisted on anything so partisan, Issue 1 would never even have made it to the House floor.”

Moving on to the other problem he noted with the current proposal, Mr. Jacobson said the proposal allows only one smaller county and one city to be split between districts, with the exception that, if it is impossible to draw the map with only one split, then a second county/city may be split. He said that plan has two problems. First, he said, while Ohio constitutional law has allowed population deviations of 10 percent (or in limited cases under the old system 20 percent), federal courts allow only a much smaller deviation between congressional districts. He said there is no way to ensure for the next fifty years that, as a result of each decennial census, county populations will line up to allow two perfectly-sized districts to be drawn with only one county split between them. He added that, if Ohio has an odd number of districts after the next census, as most experts predict, then one of the districts will not be able to have any split county and must be formed from entire counties. He commented that making a perfect district with only whole counties and no splits is even more difficult than finding two districts that match up perfectly with one split between them. Second, he noted that if line drawers actually were to conclude that they need to make a second split, opponents will use a supercomputer to analyze millions of potential districts to find the one version that does not need a second split, and the map will be invalidated in court.

He said Issue 1 negotiators rejected “gotcha” line drawing rules that were so restrictive as to make compliance virtually impossible, explaining the reason for this was that experience with prior reapportionments had demonstrated the Ohio Supreme Court would “throw up its hands at having too many rules that could not all be followed at the same time, if at all.”

Instead, he said Issue 1 negotiators chose to adopt very specific rules that protected what was most important, and thus ensured that the rules could be followed and would be enforced. He noted, “Because our rules were specific and followable, the negotiators were able to agree to tough enforcement provisions should those rules be violated. If you can draw districts without violating the rules, and you instead choose to violate them, shame on you and there will be real consequences.” He said his concern is that the current proposal risks that the rules could not be followed and the Court would again have to decide whether to impose a punishment for a

violation that could not be avoided. He said, in an effort to avoid this problem, Republicans were willing to look for a method to minimize splitting counties and cities while still ensuring that compliant districts could always be drawn. He said the resulting numbers were high enough to ensure that Ohio map drawers would not need what he called “win-the-lottery luck” to be able to draw districts that do not violate the rules.

He cautioned there is a larger deviation from the spirit of Issue 1, which is that the proposals being considered limit flexibility and make it difficult to produce any legal map. He said Issue 1 provided a fair amount of flexibility with clear rules, allowing the two parties to negotiate to find a map that both sides believe is fair. However, he said the current proposal makes it more likely that the map will be drawn by supercomputers capable of analyzing millions of different combinations of counties, cities, townships, and splits to find the one map that is both legal and most favorable to the majority. He commented “when human beings in good faith are not capable of obeying the Ohio Constitution without the use of supercomputers, we have strayed too far from the democratic process.”

Mr. Jacobson concluded by urging the committee to adopt a proposal that simply applies Issue 1’s rules to Congressional districts.

Sen. Coley noted that, although the courts permit some variations, he has seen courts say the General Assembly did things that the General Assembly did not do. He noted that if a plan is even one person off the target number, the federal courts can strike down the plan.

Mr. Jacobson said it is “win the lottery luck to say whatever the number might be I can find exact pairs of districts and will be able to do that for the whole state.”

Ms. Brooks asked Mr. Jacobson who he is representing in the negotiations. Mr. Jacobson said he does not know how he became the Republican negotiator on Issue 1, but regarding Congressional redistricting he raised objections and concerns as a member of the Commission, and participated as an expert and colleague to Republican members of the Legislative Branch and Executive Branch Subcommittee on Congressional Redistricting.

Committee member Herb Asher asked Prof. Gunther to explain the issue regarding 16 splits versus eight pairs. Prof. Gunther said his major point was there easily can be discussion over how many splits are allowable, a key difference between the position of Democrats and Republicans. He observed this is the easiest kind of issue to resolve because doing so involves developing clear counting rules. He said his reading of that issue depends on the exact language that is used and how that is translated into drawing boundaries, and that the issue is negotiable.

Mr. Jacobson agreed, saying if Prof. Gunther is happy with that, he is happy with that. He noted “it is only when you are allowed to split one between the pair, that there is a problem.” He said the 72-county result is acceptable to him.

Chair Mills then recognized Bethany Sanders, legal counsel for the Ohio Senate Democratic Caucus, who worked with Mr. Jacobson on language and participated in the negotiations.

Ms. Sanders said the definition of what counts as a split is primarily that splits are counted based on the number of splits per district. She said if a portion of county or city is in one district and a

portion is in another district, that arrangement counts as a split. She said she agrees with Prof. Gunther's opinion regarding counties that could be split, a number she would argue is closer to eight, but that has been the position the whole time. She said part of the issue is that negotiators do not know where the votes are on the committee, and would like feedback on what kind of compromise might be acceptable.

Sen. Coley asked how Ms. Sanders is counting, wondering about cities that are in multiple counties. Referencing line 175 of LSC 131 157-2, he said the draft indicates if a municipal corporation or township has territory in more than one county, the portion in each county is considered a separate municipal corporation or township.

There being no further comments or questions, Chair Mills noted the committee was scheduled to discuss other Article II sections by way of planning its next steps but that, in the interests of time, that discussion would occur at another meeting.

Chair Mills expressed disappointment that he had not been briefed on developments and discussions of the working group, commenting that he was unaware of testimony that would be provided at the committee meeting until just before the meeting occurred. He said, in the future, Congressional redistricting negotiations would go through the subcommittee formed for this purpose, and that he would schedule a subcommittee meeting.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned at 3:50 p.m.

Approval:

The minutes of the May 12, 2016 meeting of the Legislative Branch and Executive Branch Committee were approved at the July 14, 2016 meeting of the committee.

Frederick E. Mills, Chair

Paula Brooks, Vice-chair

LSC 131 0157-2

131st General Assembly
Regular Session
2015-2016

J. R. No.

JOINT RESOLUTION

Proposing to amend the versions of Sections 1, 2, 3, 1
 4, 6, 8, and 9 of Article XI that are scheduled to 2
 take effect January 1, 2021; to amend, for the 3
 purpose of adopting new section numbers as 4
 indicated in parentheses, the versions of Sections 5
 3 (4), 4 (5), 5 (6), 6 (7), 7 (8), 8 (9), 9 (10), 6
 and 10 (11) of Article XI that are scheduled to 7
 take effect January 1, 2021; and to enact new 8
 Section 3 of Article XI of the Constitution of the 9
 State of Ohio to revise the redistricting process 10
 for congressional districts. 11

Be it resolved by the General Assembly of the State of Ohio, 12
 three-fifths of the members elected to each house concurring 13
 herein, that there shall be submitted to the electors of the 14
 state, in the manner prescribed by law at the general election to 15
 be held on November 8, 2016, a proposal to amend the versions of 16
 Sections 1, 2, 3, 4, 6, 8, and 9 of Article XI that are scheduled 17
 to take effect January 1, 2021; to amend, for the purpose of 18
 adopting new section numbers as indicated in parentheses, the 19
 versions of Sections 3 (4), 4 (5), 5 (6), 6 (7), 7 (8), 8 (9), 9 20
 (10), and 10 (11) of Article XI that are scheduled to take effect 21
 January 1, 2021; and to enact new Section 3 of Article XI of the 22
 Constitution of the State of Ohio to read as follows: 23

ARTICLE XI

24

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

(1) The governor;

(2) The auditor of state;

(3) The secretary of state;

(4) One person appointed by the speaker of the house of representatives;

(5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;

(6) One person appointed by the president of the senate; and

(7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

No appointed member of the commission shall be a current member of congress.

The legislative leaders in the senate and the house of representatives of each of the two largest political parties represented in the general assembly, acting jointly by political party, shall appoint a member of the commission to serve as a co-chairperson of the commission.

(B)(1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a majority vote of the members of the commission, including at least one member of the commission who is a member of

each of the two largest political parties represented in the 54
general assembly, shall be required to do any of the following: 55

(i) Adopt rules of the commission; 56

(ii) Hire staff for the commission; 57

(iii) Expend funds. 58

(b) If the commission is unable to agree, by the vote 59
required under division (B)(2)(a) of this section, on the manner 60
in which funds should be expended, each co-chairperson of the 61
commission shall have the authority to expend one-half of the 62
funds that have been appropriated to the commission. 63

(3) The affirmative vote of four members of the commission, 64
including at least two members of the commission who represent 65
each of the two largest political parties represented in the 66
general assembly shall be required to adopt any congressional or 67
general assembly district plan. For the purpose of this division, 68
a member of the commission shall be considered to represent a 69
political party if the member was appointed to the commission by a 70
member of that political party or if, in the case of the governor, 71
the auditor of state, or the secretary of state, the member is a 72
member of that political party. 73

(C) At the first meeting of the commission, which the 74
governor shall convene only in a year ending in the numeral one, 75
except as provided in Sections ~~8~~ 9 and 9 10 of this article, the 76
commission shall set a schedule for the adoption of procedural 77
rules for the operation of the commission. 78

The commission shall release to the public a proposed general 79
assembly district plan for the boundaries for each of the 80
ninety-nine house of representatives districts and the 81
thirty-three senate districts. The commission also shall release 82
to the public a proposed congressional district plan for the 83
boundaries for the prescribed number of congressional districts as 84

apportioned to the state pursuant to Section 2 of Article I of the 85
Constitution of the United States. The commission shall draft the 86
 proposed ~~plan~~ plans in the manner prescribed in this article. 87

Before 88

Before adopting, but after introducing, a proposed plan, the 89
 commission shall conduct a minimum of three public hearings across 90
 the state to present the proposed plan and shall seek public input 91
 regarding the proposed plan. All meetings of the commission shall 92
 be open to the public. Meetings shall be broadcast by electronic 93
 means of transmission using a medium readily accessible by the 94
 general public. 95

The commission shall adopt a final congressional district 96
plan and a final general assembly district plan not later than the 97
 first day of September of a year ending in the numeral one. After 98
 the commission adopts a final plan, the commission shall promptly 99
 file the plan with the secretary of state. Upon filing with the 100
 secretary of state, the plan shall become effective. 101

Four weeks after the adoption of a congressional district 102
plan or a general assembly district plan, whichever is later, the 103
 commission shall be automatically dissolved. 104

(D) The general assembly shall be responsible for making the 105
 appropriations it determines necessary in order for the commission 106
 to perform its duties under this article. 107

Section 2. Each congressional district shall be entitled to a 108
single representative in the United States house of 109
representatives in each congress. Each house of representatives 110
 district shall be entitled to a single representative in each 111
 general assembly. Each senate district shall be entitled to a 112
 single senator in each general assembly. 113

Section 3. (A) The whole population of the state, as 114
determined by the federal decennial census or, if such is 115

unavailable, such other basis as the general assembly may direct, 116
shall be divided by the number of congressional districts 117
apportioned to the state pursuant to Section 2 of Article I of the 118
Constitution of the United States, and the quotient shall be the 119
congressional ratio of representation for ten years next 120
succeeding such redistricting. 121

(B) A congressional district plan shall comply with all of 122
the requirements of division (B) of this section. 123

(1) The commission shall minimize the extent to which each 124
congressional district's population differs from the congressional 125
ratio of representation, as is practicable, while taking into 126
account other legitimate state objectives in the creation of 127
congressional districts. The commission may include in a 128
congressional district plan an explanation of the reason that any 129
district contains a population that is not equal to the 130
congressional ratio of representation. 131

(2) Any congressional district plan adopted by the commission 132
shall comply with all applicable provisions of the constitutions 133
of Ohio and the United States and of federal law. 134

(3) Every congressional district shall be composed of 135
contiguous territory, and the boundary of each district shall be a 136
single nonintersecting continuous line. 137

(C) Congressional districts shall be created and numbered in 138
the following order of priority, to the extent that such order is 139
consistent with the foregoing standards: 140

(1) Proceeding in succession from the largest to the 141
smallest, each county containing population greater than one 142
congressional ratio of representation shall be divided into as 143
many congressional districts contained entirely within that county 144
as it has whole ratios of representation. Any fraction of the 145
population that remains after the county has been divided into as 146

many congressional districts as it has whole ratios of 147
representation shall be a part of only one adjoining congressional 148
district. 149

(2) Each county containing population substantially equal to 150
the congressional ratio of representation shall be designated a 151
congressional district. 152

(3) Each county containing a population of more than fifty 153
per cent, but less than one hundred per cent, of one congressional 154
ratio of representation shall be included in only one 155
congressional district. 156

(4) Except as otherwise provided in division (C)(5) of this 157
section, the remaining territory of the state shall be divided 158
into congressional districts by combining the areas of whole 159
counties, municipal corporations, and townships. 160

(5)(a) Except as otherwise provided in division (C)(5)(b) of 161
this section, in drawing each congressional district, the 162
commission may split one county, except as prohibited under 163
division (C)(1), (2), or (3) of this section, and one municipal 164
corporation or township, in order to create a district that 165
complies with the requirements of this article. 166

(b) If it is not possible to comply with division (C)(5)(a) 167
of this section in creating a congressional district, the 168
commission may split two counties, except as prohibited under 169
division (C)(1), (2), or (3) of this section, and two municipal 170
corporations or townships in order to create the district. 171

(c) Except as required under division (C)(1) of this section, 172
no county, municipal corporation, or township shall be included in 173
more than two congressional districts. 174

(D)(1) Except as otherwise provided in division (D)(2) of 175
this section, a county, municipal corporation, or township is 176
considered to be split if any contiguous portion of its territory 177

is not contained entirely within one district. 178

(2) If a municipal corporation or township has territory in 179
more than one county, the contiguous portion of that municipal 180
corporation or township that lies in each county shall be 181
considered to be a separate municipal corporation or township for 182
the purposes of this section. 183

Section 3 4. (A) The whole population of the state, as 184
determined by the federal decennial census or, if such is 185
unavailable, such other basis as the general assembly may direct, 186
shall be divided by the number "ninety-nine" and by the number 187
"thirty-three" and the quotients shall be the ratio of 188
representation in the house of representatives and in the senate, 189
respectively, for ten years next succeeding such redistricting. 190

(B) A general assembly district plan shall comply with all of 191
the requirements of division (B) of this section. 192

(1) The population of each house of representatives district 193
shall be substantially equal to the ratio of representation in the 194
house of representatives, and the population of each senate 195
district shall be substantially equal to the ratio of 196
representation in the senate, as provided in division (A) of this 197
section. In no event shall any district contain a population of 198
less than ninety-five per cent nor more than one hundred five per 199
cent of the applicable ratio of representation. 200

(2) Any general assembly district plan adopted by the 201
commission shall comply with all applicable provisions of the 202
constitutions of Ohio and the United States and of federal law. 203

(3) Every general assembly district shall be composed of 204
contiguous territory, and the boundary of each district shall be a 205
single nonintersecting continuous line. 206

(C) House of representatives districts shall be created and 207
numbered in the following order of priority, to the extent that 208

such order is consistent with the foregoing standards:	209
(1) Proceeding in succession from the largest to the	210
smallest, each county containing population greater than one	211
hundred five per cent of the ratio of representation in the house	212
of representatives shall be divided into as many house of	213
representatives districts as it has whole ratios of	214
representation. Any fraction of the population in excess of a	215
whole ratio shall be a part of only one adjoining house of	216
representatives district.	217
(2) Each county containing population of not less than	218
ninety-five per cent of the ratio of representation in the house	219
of representatives nor more than one hundred five per cent of the	220
ratio shall be designated a representative district.	221
(3) The remaining territory of the state shall be divided	222
into representative districts by combining the areas of counties,	223
municipal corporations, and townships. Where feasible, no county	224
shall be split more than once.	225
(D)(1)(a) Except as otherwise provided in divisions (D)(1)(b)	226
and (c) of this section, a county, municipal corporation, or	227
township is considered to be split if any contiguous portion of	228
its territory is not contained entirely within one district.	229
(b) If a municipal corporation or township has territory in	230
more than one county, the contiguous portion of that municipal	231
corporation or township that lies in each county shall be	232
considered to be a separate municipal corporation or township for	233
the purposes of this section.	234
(c) If a municipal corporation or township that is located in	235
a county that contains a municipal corporation or township that	236
has a population of more than one ratio of representation is split	237
for the purpose of complying with division (E)(1)(a) or (b) of	238
this section, each portion of that municipal corporation or	239

township shall be considered to be a separate municipal 240
corporation or township for the purposes of this section. 241

(2) Representative districts shall be drawn so as to split 242
the smallest possible number of municipal corporations and 243
townships whose contiguous portions contain a population of more 244
than fifty per cent, but less than one hundred per cent, of one 245
ratio of representation. 246

(3) Where the requirements of divisions (B), (C), and (D) of 247
this section cannot feasibly be attained by forming a 248
representative district from whole municipal corporations and 249
townships, not more than one municipal corporation or township may 250
be split per representative district. 251

(E)(1) If it is not possible for the commission to comply 252
with all of the requirements of divisions (B), (C), and (D) of 253
this section in drawing a particular representative district, the 254
commission shall take the first action listed below that makes it 255
possible for the commission to draw that district: 256

(a) Notwithstanding division (D)(3) of this section, the 257
commission shall create the district by splitting two municipal 258
corporations or townships whose contiguous portions do not contain 259
a population of more than fifty per cent, but less than one 260
hundred per cent, of one ratio of representation. 261

(b) Notwithstanding division (D)(2) of this section, the 262
commission shall create the district by splitting a municipal 263
corporation or township whose contiguous portions contain a 264
population of more than fifty per cent, but less than one hundred 265
per cent, of one ratio of representation. 266

(c) Notwithstanding division (C)(2) of this section, the 267
commission shall create the district by splitting, once, a single 268
county that contains a population of not less than ninety-five per 269
cent of the ratio of representation, but not more than one hundred 270

five per cent of the ratio of representation. 271

(d) Notwithstanding division (C)(1) of this section, the 272
commission shall create the district by including in two districts 273
portions of the territory that remains after a county that 274
contains a population of more than one hundred five per cent of 275
the ratio of representation has been divided into as many house of 276
representatives districts as it has whole ratios of 277
representation. 278

(2) If the commission takes an action under division (E)(1) 279
of this section, the commission shall include in the general 280
assembly district plan a statement explaining which action the 281
commission took under that division and the reason the commission 282
took that action. 283

(3) If the commission complies with divisions (E)(1) and (2) 284
of this section in drawing a district, the commission shall not be 285
considered to have violated division (C)(1), (C)(2), (D)(2), or 286
(D)(3) of this section, as applicable, in drawing that district, 287
for the purpose of an analysis under division (D) of Section 9 10 288
of this article. 289

Section 4 5. (A) Senate districts shall be composed of three 290
contiguous house of representatives districts. 291

(B)(1) A county having at least one whole senate ratio of 292
representation shall have as many senate districts wholly within 293
the boundaries of the county as it has whole senate ratios of 294
representation. Any fraction of the population in excess of a 295
whole ratio shall be a part of only one adjoining senate district. 296

(2) Counties having less than one senate ratio of 297
representation, but at least one house of representatives ratio of 298
representation, shall be part of only one senate district. 299

(3) If it is not possible for the commission to draw 300
representative districts that comply with all of the requirements 301

of this article and that make it possible for the commission to 302
 comply with all of the requirements of divisions (B)(1) and (2) of 303
 this section, the commission shall draw senate districts so as to 304
 commit the fewest possible violations of those divisions. If the 305
 commission complies with this division in drawing senate 306
 districts, the commission shall not be considered to have violated 307
 division (B)(1) or (2) of this section, as applicable, in drawing 308
 those districts, for the purpose of an analysis under division (D) 309
 of Section ~~9~~ 10 of this article. 310

(C) The number of whole ratios of representation for a county 311
 shall be determined by dividing the population of the county by 312
 the ratio of representation in the senate determined under 313
 division (A) of Section ~~3~~ 4 of this article. 314

(D) Senate districts shall be numbered from one through 315
 thirty-three and as provided in Section ~~5~~ 6 of this article. 316

Section ~~5~~ 6. At any time the boundaries of senate districts 317
 are changed in any general assembly district plan made pursuant to 318
 any provision of this article, a senator whose term will not 319
 expire within two years of the time the plan becomes effective 320
 shall represent, for the remainder of the term for which the 321
 senator was elected, the senate district that contains the largest 322
 portion of the population of the district from which the senator 323
 was elected, and the district shall be given the number of the 324
 district from which the senator was elected. If more than one 325
 senator whose term will not so expire would represent the same 326
 district by following the provisions of this section, the plan 327
 shall designate which senator shall represent the district and 328
 shall designate which district the other senator or senators shall 329
 represent for the balance of their term or terms. 330

Section ~~6~~ 7. The Ohio redistricting commission shall attempt 331
 to draw a congressional district plan and a general assembly 332
 district plan that ~~meets~~ meet all of the following standards: 333

(A) No congressional district plan or general assembly 334
 district plan shall be drawn primarily to favor or disfavor a 335
 political party. 336

(B) The statewide proportion of districts whose voters, based 337
 on statewide state and federal partisan general election results 338
 during the last ten years, favor each political party shall 339
 correspond closely to the statewide preferences of the voters of 340
 Ohio. 341

(C) ~~General~~ Congressional districts and general assembly 342
 districts shall be compact. 343

Nothing in this section permits the commission to violate the 344
 district standards described in Section 2, 3, 4, 5, 6, or 7 8 of 345
 this article. 346

Section 7 8. Notwithstanding the fact that boundaries of 347
 counties, municipal corporations, and townships within a district 348
 may be changed, district boundaries shall be created by using the 349
 boundaries of counties, municipal corporations, and townships as 350
 they exist at the time of the federal decennial census on which 351
 the redistricting is based, or, if unavailable, on such other 352
 basis as the general assembly has directed. 353

Section 8 9. (A)(1) If the Ohio redistricting commission 354
 fails to adopt a final congressional district plan or a final 355
 general assembly district plan not later than the first day of 356
 September of a year ending in the numeral one, in accordance with 357
 Section 1 of this article, the commission shall introduce a 358
 proposed ~~general assembly~~ district plan of the applicable type by 359
 a simple majority vote of the commission. 360

(2) After introducing a proposed ~~general assembly~~ district 361
 plan under division (A)(1) of this section, the commission shall 362
 hold a public hearing concerning the proposed plan, at which the 363
 public may offer testimony and at which the commission may adopt 364

amendments to the proposed plan. Members of the commission should 365
attend the hearing; however, only a quorum of the members of the 366
commission is required to conduct the hearing. 367

(3) After the hearing described in division (A)(2) of this 368
section is held, and not later than the fifteenth day of September 369
of a year ending in the numeral one, the commission shall adopt a 370
final ~~general assembly~~ district plan of the applicable type, 371
either by the vote required to adopt a plan under division (B)(3) 372
of Section 1 of this article or by a simple majority vote of the 373
commission. 374

(B) If the commission adopts a final ~~general assembly~~ 375
district plan in accordance with division (A)(3) of this section 376
by the vote required to adopt a plan under division (B)(3) of 377
Section 1 of this article, the plan shall take effect upon filing 378
with the secretary of state and shall remain effective until the 379
next year ending in the numeral one, except as provided in Section 380
9 10 of this article. 381

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) 382
of this section, if the commission adopts a final congressional 383
district plan in accordance with division (A)(3) of this section 384
by a simple majority vote of the commission, and not by the vote 385
required to adopt a plan under division (B)(3) of Section 1 of 386
this article, the plan shall take effect upon filing with the 387
secretary of state and shall remain effective until two general 388
elections for the United States house of representatives have 389
occurred under the plan. 390

Except as otherwise provided in division (C)(1)(b) of this 391
section, if the commission adopts a final general assembly 392
district plan in accordance with division (A)(3) of this section 393
by a simple majority vote of the commission, and not by the vote 394
required to adopt a plan under division (B)(3) of Section 1 of 395
this article, the plan shall take effect upon filing with the 396

secretary of state and shall remain effective until two general 397
elections for the house of representatives have occurred under the 398
plan. 399

(b) If the commission adopts a final ~~general assembly~~ 400
district plan in accordance with division (A)(3) of this section 401
by a simple majority vote of the commission, and not by the vote 402
required to adopt a plan under division (B) of Section 1 of this 403
article, and that plan is adopted to replace a plan that ceased to 404
be effective under division (C)(1)(a) of this section before a 405
year ending in the numeral one, the plan adopted under this 406
division shall take effect upon filing with the secretary of state 407
and shall remain effective until a year ending in the numeral one, 408
except as provided in Section ~~9~~ 10 of this article. 409

(2) A final ~~general assembly~~ district plan adopted under 410
division (C)(1)(a) or (b) of this section shall include a 411
statement explaining what the commission determined to be the 412
statewide preferences of the voters of Ohio and the manner in 413
which the statewide proportion of districts in the plan whose 414
voters, based on statewide state and federal partisan general 415
election results during the last ten years, favor each political 416
party corresponds closely to those preferences, as described in 417
division (B) of Section ~~6~~ 7 of this article. At the time the plan 418
is adopted, a member of the commission who does not vote in favor 419
of the plan may submit a declaration of the member's opinion 420
concerning the statement included with the plan. 421

(D) After a ~~general assembly~~ district plan adopted under 422
division (C)(1)(a) of this section ceases to be effective, and not 423
earlier than the first day of July of the year following the year 424
in which the plan ceased to be effective, the commission shall be 425
reconstituted as provided in Section 1 of this article, convene, 426
and adopt a new ~~general assembly~~ district plan of the applicable 427
type in accordance with this article, to be used until the next 428

time for redistricting under this article. The commission shall 429
draw the new ~~general assembly~~ district plan using the same 430
population and county, municipal corporation, and township 431
boundary data as were used to draw the previous plan adopted under 432
division (C) of this section. 433

Section 9 10. (A) The supreme court of Ohio shall have 434
exclusive, original jurisdiction in all cases arising under this 435
article. 436

(B) In the event that any section of this constitution 437
relating to redistricting, any congressional or general assembly 438
district plan made by the Ohio redistricting commission, or any 439
district is determined to be invalid by an unappealed final order 440
of a court of competent jurisdiction then, notwithstanding any 441
other provisions of this constitution, the commission shall be 442
reconstituted as provided in Section 1 of this article, convene, 443
and ascertain and determine a ~~general assembly~~ district plan of 444
the applicable type in conformity with such provisions of this 445
constitution as are then valid, including, if applicable, 446
establishing terms of office and election of members of the 447
general assembly from districts designated in the plan, to be used 448
until the next time for redistricting under this article in 449
conformity with such provisions of this constitution as are then 450
valid. 451

(C) Notwithstanding any provision of this constitution or any 452
law regarding the residence of senators and representatives, a 453
general assembly district plan made pursuant to this section shall 454
allow thirty days for persons to change residence in order to be 455
eligible for election. 456

(D)(1) No court shall order, in any circumstance, the 457
implementation or enforcement of any congressional or general 458
assembly district plan that has not been approved by the 459
commission in the manner prescribed by this article. 460

(2) No court shall order the commission to adopt a particular congressional or general assembly district plan or to draw a particular district.

(3) If the supreme court of Ohio determines that a congressional or general assembly district plan adopted by the commission does not comply with the requirements of Section 2, 3, 4, 5, 6, or 7 8 of this article, the available remedies shall be as follows:

(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.

(b) ~~If~~ In the case of a congressional district plan, if the court finds that it is necessary to amend not fewer than two congressional districts to correct violations of those requirements, the court shall declare the plan invalid and shall order the commission to adopt a new congressional district plan in accordance with this article.

In the case of a general assembly district plan, if the court finds that it is necessary to amend not fewer than six house of representatives districts to correct violations of those requirements, to amend not fewer than two senate districts to correct violations of those requirements, or both, the court shall declare the plan invalid and shall order the commission to adopt a new general assembly district plan in accordance with this article.

(c) If, in considering a plan adopted under division (C) of Section ~~8~~ 9 of this article, the court determines that both of the following are true, the court shall order the commission to adopt a new congressional or general assembly district plan, as applicable, in accordance with this article:

(i) The plan significantly violates those requirements in a

manner that materially affects the ability of the plan to contain 492
 districts whose voters favor political parties in an overall 493
 proportion that corresponds closely to the statewide political 494
 party preferences of the voters of Ohio, as described in division 495
 (B) of Section ~~6~~ 7 of this article. 496

(ii) The statewide proportion of districts in the plan whose 497
 voters, based on statewide state and federal partisan general 498
 election results during the last ten years, favor each political 499
 party does not correspond closely to the statewide preferences of 500
 the voters of Ohio. 501

Section ~~10~~ 11. The various provisions of this article are 502
 intended to be severable, and the invalidity of one or more of 503
 such provisions shall not affect the validity of the remaining 504
 provisions. 505

EFFECTIVE DATE AND REPEAL 506

If adopted by a majority of the electors voting on this 507
 proposal, Sections 1, 2, 3 (4), 4 (5), 5 (6), 6 (7), 7 (8), 8 (9), 508
 9 (10), and 10 (11) of Article XI amended by this proposal and 509
 Section 3 of Article XI enacted by this proposal take effect 510
 January 1, 2021, and the existing versions of Sections 1, 2, 3, 4, 511
 5, 6, 7, 8, 9, and 10 of Article XI of the Constitution of the 512
 State of Ohio that were scheduled to take effect January 1, 2021, 513
 are repealed from that effective date. 514



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MEMORANDUM

TO: Chair Fred Mills, Vice-chair Paula Brooks, and
Members of the Legislative Branch and Executive Branch Committee

FROM: Steven C. Hollon, Executive Director

DATE: April 7, 2016

RE: Grouping of Article II Sections by Topic for Review by the Committee

This memorandum summarizes the various sections contained in Article II that have been assigned to the Legislative Branch and Executive Branch Committee. The summaries are grouped into topical categories, not as a proposal for action, but as a means of aiding the committee in its review and analysis of the provisions.

Category I – Section 1 (Legislative Power)

There is just one section in this category. It deals with vesting the legislative authority of government in the General Assembly and reserving to the people certain powers, such as the initiative and referendum. The sections on the initiative and referendum are closely related to the legislative authority and contain related numbering in the constitution, but they have been separately assigned to the Constitutional Revision and Updating Committee.

Section 1 – In Whom Power Vested (1851, amend. 1912, 1918, and 1953)

- This section states that the “legislative power of the state shall be vested in a General Assembly consisting of a Senate and House of Representatives” and then goes on to state that the people reserve to themselves the power of the initiative and referendum to propose and reject laws passed by the General Assembly. The section also states that the limitations place on the General Assembly by the constitution shall also “be deemed limitations on the power of the people to enact laws.”

The committee may wish to consider revising this provision into a more readable format. One possible format is provided at Attachment A. The suggested format sets out the powers in a cleaner fashion, which aids in reader comprehension without changing the meaning. However, suggesting that this section be amended for the sole purpose of clarity may not be a sufficient reason to change it.

Sections 1a through 1g – General Powers of Initiative and Referendum; Ballot Board (1912, amend. 2008)

- These sections deal with the powers of the initiative and referendum. They have been assigned to the Constitutional Revision and Updating Committee. An overriding question is whether the seven sections dealing with this topic should be removed from Article II and placed in a new article dealing with this topic specifically, or whether they should be retained in this article as numbered. This question may require some discussion between the chairs of the Legislative Branch and Executive Branch Committee (Mills) and the Constitutional Revision and Updating Committee (Mulvihill), or a joint meeting of the committees.

Category II – Section 2 (Election of Legislators)

There is just one section in this category, which deals with the election and terms of the members of the General Assembly.

Section 2 – Election and Term of State Legislators (1967, amend. 1992)

- This section deals with the election and terms of state legislators, including the term limitation language that was added to the constitution in 1992. The committee has already dealt with this topic and passed two separate reports and recommendations on the issue of term limits which have not yet been considered by the full Commission.

There is no need for the committee to take any further action on this section.

Category III – Sections 3, 4, 5, 11, and 31 (Qualifications, Vacancy, and Compensation of Members of General Assembly)

Sections 3, 4, 5, 11, and 31 deal with residency requirements and restrictions on those who serve in the General Assembly, the method for filling a vacancy of a member of the General Assembly, and the compensation of the members and officers of that body.

When reviewing these sections, and before preparing a single report and recommendation on these provisions, the committee may wish to consider whether some of the provisions should remain in Article II or whether they should be moved to another article dealing with officeholders in general. See Category VIII (Officeholders) below.

Section 3 – Residence Requirements (1851, amend. 1967)

- This section states that senators and representatives shall have lived in their districts for one year prior to their election.

Section 4 – Dual Office and Conflict of Interest Prohibited (1851, amend. 1973)

- This section sets out restrictions that no member of the General Assembly shall hold any other public office while serving as a member, except for an office in a political party, as a notary public, or an officer in the militia or of the United States armed forces. This is one of the topics the committee may wish to consider moving out of Article II and placing in an article dealing with officeholders in general. See Category VIII (Officeholders) below.

Section 5 – Who Shall Not Hold Office (1851)

- This section states that no person holding money for public disbursement shall have a seat in the General Assembly until accounting for and paying moneys into the treasury. It also states that no person convicted of embezzlement of public funds shall hold any office in the state. This last disability goes beyond just those serving in the General Assembly and applies to all offices. The committee may wish to consider removing this restriction from this section, and placing it in an article dealing with officeholders in general. See Category VIII (Officeholders) below.

Section 11 – Filling Vacancy in House or Senate Seat (1851, amend. 1961, 1968, 1973)

- This fairly lengthy section deals with how vacancies shall be filled in the Senate and House of Representatives.

Section 31 – Compensation of Members and Officers of the General Assembly (1851)

- This section states that members and officers of the General Assembly shall receive a fixed compensation to be prescribed by law and no other allowances and perquisites, and that no change in their compensation shall take place during their term in office.

Category IV – Sections 6, 7, 8, 9, 13, and 14 (Conducting Business of General Assembly)

The sections in this category deal with the organization and power of the General Assembly and some basic standards for conducting the business of the body. Of the six sections in this category, four were adopted in 1851 and then amended in 1973, one was adopted in 1851 and has never been amended, and one was adopted in 1973, at the time the first four sections noted above were amended. The sections in this category could be considered in the same report and recommendation.

Section 6 – Powers of Each House (1851, amend. 1973)

- This provision provides for several, somewhat unrelated items, such as (i) each house shall be the judge of the election and qualifications of its members; (ii) each house may punish its members for disorderly conduct; (iii) a majority shall constitute a quorum to do business; and (iv) each house has all powers necessary to obtain information affecting legislative action, including the powers to enforce the attendance and testimony of witnesses.

Section 7 – Organization of Each House of the General Assembly (1851, amend. 1973)

- This section states that the mode of operating each house of the General Assembly shall be prescribed by law, sets out the titles for the presiding officer of each house, and indicates that each house shall determine its own rules of proceeding.

Section 8 – Sessions of the General Assembly (1973)

- This section provides when regular and special sessions of the General Assembly may be convened, who may convene them.

Section 9 – House and Senate Journals (1851, amend. 1973)

- This section states that each house of the General Assembly shall keep a correct journal of its proceedings, and that on the passage of every bill the vote shall be taken by yeas and nays.

Section 13 – Legislative Sessions to be Public (1851)

- This section provides that the proceedings of both houses shall be public, except when two-thirds of those present find that secrecy is required.

Section 14 – Power of Adjournment (1851, amend. 1973)

- This provision states that neither house shall adjourn for more than five days without the consent of the other, nor reconvene in any place other than which the two houses are in session.

Category V – Sections 10 and 12 (Rights and Privileges of Members of General Assembly)

Sections 10 and 12 deal with the rights and privileges of the members of the General Assembly, specifically noted in the constitution. It makes sense that they should be considered by the committee at the same time and reviewed in the same report and recommendation.

Section 10 – Rights of Members to Protest (1851)

- This section states that any member of either house has the right to protest against any act or resolution, and that such protest shall be entered upon the journal.

Section 12 – Privileges of Members from Arrest (1851)

- This section deals with the immunity of members of the General Assembly (i) from arrest in going to or returning from a session, except for treason, felony or breach of the peace, and (ii) for any speech or debate.

Category VI – Sections 15, 16, 26, and 28 (Enacting Laws)

The four sections in this category deal with the process for enacting bills by the General Assembly, the requirement for the Governor’s signature, how laws are to be applied, and restrictions on their enactment. These sections can be dealt with at the same time and in one report and recommendation. However, since these sections refer to actions by both the General Assembly and the Governor, and the effect of laws generally, a question the committee may wish to address is whether this grouping of provisions should be removed from Article II and placed in its own separate article that deals with enacting laws. I have provided at Attachment B a version of what this new separate article might look like.

Section 15 – How Bills Shall Be Passed (1973)

- This section details how bills shall be passed in the General Assembly, including requirements on the style of the laws, the one subject rule, and signing by the presiding officer.

Section 16 – Bills to be signed by Governor (1851, amend. 1903, 1912, 1973)

- This section details the requirements for the governor’s signature on bills, the veto of bills, veto overrides by the General Assembly, and bills becoming law without the governor’s signature.

Section 26 – Laws to have Uniform Operation (1851)

- This section states that laws of a general nature will have uniform operation throughout the state.

Section 28 – Retroactive Laws (1851)

- This section states that the General Assembly shall have no power to pass retroactive laws or laws impairing the obligation of contracts.

Category VII – Sections 33, 34, 34a, 35, 37 (Employee and Worker Protections)

The sections in this category deal with topics that concern protecting the interests of employees and workers. There are also two other provisions that have been proposed by a private citizen that broadly fall into this category and which have been assigned to the committee for its review. One question the committee may wish to consider is whether there are enough sections on this topic that would warrant removing this group of provisions from Article II and placing them in a new and separate article dealing exclusively with this topic, in order to provide for greater clarity, transparency, and ease of comprehension by the reader.

Section 33 – Mechanics’ and Contractor’s Liens (1912)

- This section states that laws may be passed to allow for labors and materialmen to place liens on property for which they have provided labor or material.

Section 34 – Welfare of Employees (1912)

- This section states that laws may be passed regulating the hours of labor, and providing for the comfort, health, safety, and general welfare of employees.

Section 34a – Minimum Wage (2006)

- Sets a minimum wage for every employer in the state to pay their employees.

Section 35 – Workers’ Compensation (1912, amend. 1923)

- This section states that laws may be passed to provide compensation for workers and their dependents for death, injuries, and occupational disease occurring in the course of one’s employment.

Section 37 – Workday and Workweek on Public Projects (1912)

- This section states that not more than eight hours shall constitute a day’s work and not more than 48 hours shall constitute a week’s work on public work projects.

Proposed Section – No Public Resources in Collection of Labor Dues

- This proposal, submitted to the Commission by a private citizen, would prohibit the use of public resources to assist a labor organization in collecting dues or service fees from wages of public employees.

Proposed Section – Right to Work/Workplace Freedom

- This proposal, submitted to the Commission by a private citizen, would prohibit a person, as a condition of employment, from becoming a member of a labor organization or paying dues to a union organization.

Category VIII – Sections 4, 5, 20, 23, 24, 27, 38 (Officeholders)

The sections noted below deal with various topics that concern officers and officeholders, including their term, compensation, impeachment and removal, and filling of vacancies.

Section 20 – Term of Office, and Compensation of Officers in Certain Cases (1851)

- This section provides that the General Assembly, in cases not provided for in the constitution, shall fix the term of office and compensation for all officers.

Section 23 – Impeachments (1851)

- This section states the general procedures for impeachment, including that the House of Representatives shall have the sole power of impeachment, which shall be tried by the Senate and require the concurrence of two-thirds of the senators.

Section 24 – Officers Liable to Impeachment (1851)

- This section states the offices liable to impeachment, including the governor, judges, and all state officers.

Sections 27 – Election and Appointment of Officers; Filing of Vacancies (1851)

- This section states that the election and appointment of all officers not provided by the constitution shall be as directed by law.

Section 38 – Removal of Officials for Misconduct (1912)

- This section states that laws shall be passed providing for the prompt removal from office of all officers, including state officers, judges, and members of the General Assembly, for misconduct involving moral turpitude, in addition to the method of impeachment.

In addition, there are two other sections in Article II (as noted in Category III above) that the committee might consider combining with these five sections to form a new and separate article that focuses on the topic of officeholders. The two sections in Article II are as follows:

Section 4 – Dual Office and Conflict of Interest Prohibited (1851, amend. 1973)

- This section sets out that no member of the General Assembly shall hold any other public office while serving as a member, except for an office in a political party, as a notary public, or an officer in the militia or of the United States armed forces. The committee may wish to consider making this a requirement as to all officeholders in the state.

Section 5 – Who Shall Not Hold Office (1851)

- This section states that no person holding money for public disbursement shall have a seat in the General Assembly until accounting for and paying moneys into the treasury. It also states that no person convicted of embezzlement of public funds shall hold any office in the state. This last disability goes beyond just those serving in the General Assembly and applies to all offices.

There are also two other sections in the constitution, at Article XV (Miscellaneous), that might be combined with the sections noted above to round out a separate article on officeholders. They are as follows:

Section 4 – Qualified Electors (1851, amend. 1913, 1953)

- This section states that no person shall be elected or appointed to any office in the state unless they are qualified as an elector.

Section 7 – Oaths of Officers (1851)

- This section states that every person chosen or appointed to any office shall, before entering into office, shall take an oath or affirmation to support the Constitution of the United States, and Ohio, and also an oath of office.

Finally, one other topic the committee may want to consider is the creation of a salary commission and, in so doing, whether such a section should be added to the sections noted above in the creation of a new article setting out the general requirements for all officeholders in state and local government.

Category IX – Sections 21, 22, 30, 32, 39 (Miscellaneous Topics)

The following sections deal with miscellaneous powers the constitution grants to the General Assembly, but which do not deal with a common topic. These sections perhaps more logically belong in other articles in the constitution and could be transferred to other committees for review, or they could be grouped with the sections noted in Category VI above (Enacting Legislation), either in a new and separate article or contained within Article II.

Section 21 – Contested Elections (1851)

- This section states that the General Assembly shall determine before what authority and in what manner elections shall be conducted. While this affirmative granting of authority may not be necessary in order for the General Assembly to enact legislation regarding elections, if the Commission wishes to retain this grant then perhaps it should be reviewed by the Bill of Rights and Voting Committee and the section transferred to Article V (Elections).

Section 22 – Appropriations (1851)

- This section states that no money shall be drawn from the treasury, except in pursuance of a specific appropriation, and that no appropriation shall be made for more than two years. This does not fit neatly into other articles or for review by other committees. The closest one that might be considered would be the Finance, Taxation, and Economic Development Committee, but neither Article VIII (Public Debt and Public Works) nor Article XII (Finance and Taxation) seem like clean places for this provision to land.

Section 30 – New Counties (1851)

- This section deals with the creation of new counties. It states that no new county shall contain less than 400 square miles or be reduced below that level, and notes that any changes as to county lines and county seats shall be submitted to the electors of the counties to be affected. The question is whether this section should remain in this article for review by this committee or whether review of the provision should be transferred to the Education, Public Institutions, and Local Government Committee, which has been tasked with reviewing Article X (County and Township Organizations) to determine whether his provision should be transferred to that article.

Section 32 – Divorces and Judicial Power (1851)

- This section states that the judicial branch shall grant no divorce or exercise any judicial power not granted in the constitution. This section could be transferred to the Judicial Branch and Administration of Justice Committee for its review and perhaps a suggestion that it recommend the adoption of a provision in Article IV that states the issuance of a divorce shall be the sole determination of the judicial branch as provided by law.

Section 39 – Expert Testimony in Criminal Trials (1912)

- This section states that laws may be passed for the regulation of the use of expert witnesses and expert testimony in criminal proceedings. The committee should consider transferring this provision to the Judicial Branch and Administration of Justice Committee for its review. With the passage of the Modern Courts Amendment in 1968, rule-making authority was largely transferred to the Supreme Court, with some oversight by the General Assembly. This provision is largely, if not totally, obsolete and the committee could also recommend its repeal.

Category X – Section 36 and Other Provisions (Natural Resources)

Section 36 deals with the topic of natural resources, as set out below. There are also other provisions located in different articles of the constitution that deal with the topics of (i) private property and eminent domain; (ii) the protection of private property rights in ground water, lakes, and water courses; and (iii) Ohio Livestock Care Standards Board, also as set out below.

Collectively, these four topics deal with the larger issue of the preservation of natural resources and rights in private property versus the interest of the state in conserving natural resources and regulating methods for their use and extraction.

Two of the provisions noted above are assigned to the Legislative Branch and Executive Branch Committee, and are as follows:

Section 36 – Conservation of Natural Resources (1912, amend. 1973)

- This section focuses on two topics. The first part of the provision deals with taxation of forestry and agriculture. The second section deals with the conservation of natural resources and the regulation of their use and extraction.

Article XIV, Section 1 – Ohio Livestock Care Standards Board (2009)

- This section, as passed by initiative in 2009, deals with the creation and operation of the Ohio Livestock Care Standards Board, governing the care and well-being of livestock and poultry.

The other two topics provisions mentioned above are assigned to the Bill of Rights and Voting Committee, and are as follows:

Article I, Section 19 – Eminent Domain (1851)

- This section discusses the foundational principle of eminent domain as placed in Article I of the constitution dealing with the Bill of Rights.

Article I, Section 19b – Preservation of Private Property Rights in Ground Water, Lakes, and Other Watercourses (2009)

- This section discusses the protection of Ohio property owners' riparian rights.

The question is whether it makes sense to place all of these items in one article in the constitution for the convenience of the reader or whether it would be too difficult a task to have the voters approve moving these provisions around, thus making more sense to leave well enough alone and just let the two committees complete their work on these topics as assigned.

Conclusion

There is plenty of work for the committee's consideration. Determining the order and grouping of topics will aid staff in the preparation of reports and recommendations for the committee's approval and submission to the full Commission.

ATTACHMENT A**ARTICLE II – LEGISLATIVE BRANCH***Section 1 – Legislative Power*

(A) The legislative power of the state shall be vested in a General Assembly, consisting of a Senate and House of Representatives, and in the people, as they shall specifically reserve to themselves in this constitution. ~~but the~~

(B) ~~The~~ people reserve ~~to themselves~~ the power to propose to the General Assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote, as ~~hereinafter~~ provided in this constitution.

(C) ~~They also~~ The people reserve the power to adopt or reject any law, section of any law, or any item to any law, appropriating money passed by the General Assembly, except as ~~herein after~~ provided in this constitution.

(D) The people reserve the power, ~~and~~ independent of the General Assembly, to propose amendments to the constitution and to adopt or reject the same at the polls, as provided in this constitution.

(E) The limitations expressed in ~~the~~ this constitution, on the power of the General Assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.

Currently Art. II, Sec. 1 (1851, amend. 1912, 1918, 1953)

ATTACHMENT B**ARTICLE ___ - ENACTING LAWS***Section 1 – Bills*

The General Assembly shall enact no law except by bill, and no bill shall be passed without the concurrence of a majority of the members elected in each house. Bills may originate in either house, ~~but~~ and may be altered, amended, or rejected in the other.

Currently Art. II, Sec. 15(A) (1973)

Section 2 – Style of Laws

The style of the laws of this state shall be, “be it enacted by the General Assembly of the state of Ohio.”

Currently Art. II, Sec. 15(B) (1973)

Section 3 – Consideration of Bills

Every bill shall be considered by each house on three different days, unless two-thirds of the members elected to the house in which it is pending suspend this requirement, ~~and every~~. Every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house. No bill ~~may~~ shall be passed until ~~the bill~~ it has been reproduced and distributed to members of the house in which it is pending and every amendment been made available upon a member’s request.

Currently Art. II, Sec. 15(C) (1973)

Section 4 – One Subject

No bill shall contain more than one subject, which shall be clearly expressed in its title.

Currently part of Art. II, Sec. 15(D) (1973)

Section 5 – Vote

On the passage of every bill, the vote ~~in either of each~~ house, ~~the vote~~ shall be ~~taken~~ determined by yeas and nays, and ~~entered upon~~ the names of the members voting for and against the bill shall be ~~the~~ entered upon the journal.

Currently part of Art. II, Sec. 9 (1973)

Section 6 – Entire Act

No law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections amended shall be repealed.

Currently part of Art. II, Sec. 15(D) (1973)

Section 7 – Certifying Passage of Bill

Every bill which has passed both houses of the General Assembly shall be signed by the presiding officer of each house to certify that the procedural requirements for passage have been met and shall be presented forthwith to the governor for his approval.

Currently Art. II, Sec. 15(E) (1973)

Section 8 – Certifying Passage of Joint Resolution

Every joint resolution which has been adopted in both house of the General Assembly shall be signed by the presiding officer of each house to certify that the procedural requirements for adoption have been met and shall forthwith be filed with the secretary of state.

Currently Art. II, Sec. 15(F) (1973)

Section 9 – Signing by Governor; Filing with Secretary of State

If the governor approves an act passed by the General Assembly, ~~he~~ the governor shall sign it, ~~it becomes law and he shall file it with the secretary of state, whereupon it becomes law.~~

Currently part of Art. II, Sec. 16 (1973)

Section 10 – Veto by Governor; Reconsideration by General Assembly

(A) If ~~he~~ the governor does not approve ~~it~~ an act passed by the General Assembly, ~~he~~ the governor shall return it, with ~~his~~ the governor's objections in writing, to the house in which it originated, which shall enter the objections at large upon its journal, and may then reconsider the vote on its passage.

(B) If three-fifths of the members ~~elected to~~ of the house of origin vote to repass the bill, it shall be sent, with the objections of the governor, to the other house, which may also reconsider the vote on its passage. If three-fifths of the members ~~elected to~~ of the second house vote to repass it, ~~it~~ the bill becomes law notwithstanding the objections of the governor, and the presiding officer of the second house shall file it with the secretary of state. In no case shall a bill be repassed by a smaller vote that is required by the constitution on its original passage. In all cases of reconsideration, the vote of each house shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal.

(C) If a bill is not returned by the governor within ten days, Sundays excepted, after being presented to ~~him~~ the governor, it becomes law in like manner as if ~~he~~ the governor has signed it, unless the General Assembly by adjournment prevents its return; in which case, it becomes law unless, within ten days after adjournment, it is filed by ~~him~~ the governor, with ~~his~~ the governor's objections in writing, in the office of the secretary of state. The governor shall file with the secretary of state every bill not returned by ~~him~~ the governor to the house of origin that becomes law without ~~his~~ the governor's signature.

(D) The governor may disapprove any item or items in any bill making an appropriation of money and the item or items, so disapproved, shall be void, unless repassed in the manner prescribed by this section for the repassage of a bill.

Currently Art. II, Sec. 16 (1851, amend. 1903, 1912, 1973)

Section 11 – Laws Shall Have Uniform Operation

All laws, of a general nature, shall have a uniform operation throughout the state; nor shall any act, except as it 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.

Currently Art. II, Section 26 (1851)

Section 12 – Retroactive Laws

The General Assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of the state.

Currently Art. II, Section 28 (1851)

Section 13 – Tax Levies, Appropriations, and Emergency Laws; Immediate Effect

(A) Laws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health or safety, shall go into immediate effect.

(B) ~~Such~~ Emergency laws shall require the vote of two-thirds of ~~all~~ the members ~~elected to~~ in each ~~branch~~ house of the General Assembly, and the reasons for such necessity shall be set forth in one section of the law, which section shall be passed only upon a yea or nay vote, upon a separate roll call vote thereon.

(C) Laws mentioned in this section shall not be subject to the referendum as set out in Article _____, Section _____ of this constitution.

Currently Art. II, Sec. 1d (1912)



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

2016 Meeting Dates

September 8

October 13

November 10

December 8