OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

Legislative Branch and Executive Branch Committee

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

Part I

March 9, 2017

Riffe Center for Government and the Arts
Room 1914

OCMC Legislative Branch and Executive Branch Committee

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

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

THURSDAY, MARCH 9, 2017
9:30 A.M.
RIFFE CENTER FOR GOVERNMENT AND THE ARTS ROOM 1914

AGENDA

I. Call to Order

II. Roll Call

III. Approval of Minutes

- Meeting of February 9, 2017

  [Draft Minutes – attached]

- Meeting of January 12, 2017

  [Draft Minutes – attached]

- Meetings of November 2015 and 2016 – Correction to Minutes

  [Corrected Draft Minutes – attached]

IV. Reports and Recommendations

- Article II, Sections 10 and 12 (Rights and Privileges of Members of the General Assembly)

  - Review of Report and Recommendation
  - Public Comment
  - Discussion
  - **Possible Action Item: Consideration and Adoption**

[Report and Recommendation – attached]

V. Presentations and Discussion

- Article II, Sections 15, 16, 26, and 28 (Enacting Laws)

  Shari L. O'Neill
  Counsel to the Commission

  [Draft Report and Recommendation - attached]

VI. Next Steps

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

  [Summary of Sections in Article III (The Executive Branch)]

  [Planning Worksheet – attached]

VII. Old Business

VIII. New Business

IX. Public Comment

X. Adjourn

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE
LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, JANUARY 12, 2017

Call to Order:

Chair Fred Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 11:13 a.m.

Members Present:

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

Approval of Minutes:

The minutes of the December 15, 2016 meeting of the committee were approved.

Presentations and Discussion:

Steven C. Hollon
Executive Director

Chair Mills recognized Steven C. Hollon, executive director, for the purpose of presenting the draft of a proposed report and recommendation relating to Article II, Sections 10 and 12.

Mr. Hollon described that the report and recommendation covers two sections of the legislative article relating to the rights and privileges of members of the General Assembly. Mr. Hollon said Section 10 provides a right to protest to members who are in the minority in opposing legislation, allowing them to publicize their dissent in the legislative journal. Mr. Hollon said the report and recommendation outlines the history of the right of protest, which originated with the British Parliament. Mr. Hollon then described Article II, Section 12, which provides legislators a privilege from arrest under certain circumstances while traveling to and from legislative session. He said the section also provides a privilege for legislators' speech or debate, preventing them from being questioned in another setting for communications made in the course of their

legislative duties. Mr. Hollon said the report also describes discussions on these topics by the Ohio Constitutional Revision Commission in the 1970s, as well as litigation in which the sections were at issue. Mr. Hollon continued that the report outlines a presentation on the privilege of speech or debate that was provided to the committee by Professor Steven F. Huefner, of the Ohio State University Moritz College of Law. Mr. Hollon concluded that the report does not indicate the committee's discussion or recommendation on these sections but will do so once the committee has had a full opportunity to conduct its review.

Chair Mills thanked Mr. Hollon for his presentation and sought comment from the committee. He suggested the committee consider whether the speech or debate privilege should include a prohibition against testimony in a litigation setting, and whether the privilege should be extended to legislative staff.

Senator Bill Coley said the discussion in legislative caucus sessions centers on the best way to move forward on legislation that benefits citizens of the state. He said legislative members officially speak through their vote and their comments during session, not through other types of communications. He said he supports maintaining the privilege.

Sen. Charleta Tavares disagreed, saying if legislators are acting on behalf of the citizens, they should not be fearful of what they say or do on citizens' behalf. She said she would like to study this topic a little more, but would hope legislators do not say anything in any setting they would not want their constituents to know.

Sen. Coley clarified that his point was the privilege prevents another branch of government being able to call to task the legislative branch. He noted that conferences on cases conducted by justices of the Supreme Court of Ohio are privileged, as are some executive branch activities, and that members of the legislative branch deserve the same protection in order to effectively do their work. He said, "We are all elected; you cannot have different branches of government infringing on each other."

Committee member Herb Asher said the committee could benefit from more research regarding whether the provision could be modified to expressly extend the privilege to legislative staff. He said it would be useful to see how the privilege works, specifically, under what circumstances a legislator is performing his or her official duties.

Committee member Jo Ann Davidson said the privilege between legislators and employees of the Legislative Service Commission (LSC) still exists, and that the General Assembly has always protected that information. She said if legislators are to effectively perform their role the privilege is necessary. She gave an example from her experience as speaker of the Ohio House, indicating a change in party control can result in employee changes because it is recognized that the relationship between legislator and staff is confidential. She said it is important to keep in mind that there is precedent for protecting confidentiality of the legislator-staff relationship.

Chair Mills agreed, saying the committee could benefit from additional research on the privilege as it relates to legislative staff. Regarding the right of members to record their protest in the journal, he said this right has been exercised over the years, and he is not aware of complaints about legislators' having the ability to register their dissent.

Commenting regarding a report prepared by the committee of the 1970s Commission that reviewed Section 10, Sen. Tavares said she disagrees with the suggestion that because legislators can publicize their protest in the media they do not need a constitutional protection for their ability to dissent. She said the media is not something legislators can control directly, and publication may be fragmented and not reach everyone. She said, considering the recent rise in the use of social media, she would like the committee to consider some modern thinking on this question.

Chair Mills provided the committee with information about how, as a practical matter, a legislator may place a protest in the journal. He said this occurs when an individual member or when a party, usually the minority, does not like the way something came about on the floor of the chamber. He said, for example, there was a procedural ruling against them, or a procedure that was not followed, and the protest would be handed to the clerk and then included in the journal of that day's business. He said this allows a permanent record of that protest.

Sen. Tavares added some instances of the use of the protest have arisen because audio and video recordings are not permitted in committee. She said legislative minutes "are pretty vague, so we don't really capture any protest that takes place in committee hearings, who testified, or who attended." She added legislative intent is not expressed in the legislation, and no explanation is given why a legislator sponsored a bill. She said the committee record is void of any protest information, other than what is in that person's written testimony. She added that proceedings on the floor are livestreamed, so that information is available to the public.

Committee member Mike Curtin noted that, prior to the mid-1990s, a bill request from a legislative member to LSC was a public record. Describing an incident in which communications between a legislator, an interest group, and LSC came under public scrutiny, he said legislation was introduced at that time to make communications between members and LSC privileged. He said it would be helpful to know how other states address communications between legislators and legislative service agencies, and whether those states provide a privilege by statute or by constitutional provision.

Chair Mills said his sense is that the provision granting a right of protest should be maintained, but the committee may wish to revise it. Sen. Coley expressed that there could be a situation in which a legislator may vote with the majority but may agree with the minority that the procedure for enacting the legislation was improper. He said in that case the legislator cannot speak through his or her vote, so it is important to maintain the right to protest.

Chair Mills thanked Mr. Hollon for his presentation, indicating the committee would be hearing more on Sections 10 and 12 at a future meeting.

William K. Weisenberg
Attorney
Article II, Section 8 and "Lame Duck" Sessions

Chair Mills then recognized Attorney William K. Weisenberg, who said he was appearing in his personal capacity to provide comments relating to the portion of the legislative session occurring between the November election and the conclusion of the General Assembly, also known as "lame duck."

Mr. Weisenberg briefly described his prior experience as a lobbyist, indicating that, for many years, he was active in promoting legislation and was present in the statehouse during numerous lame duck sessions.

He said, in his view, lame duck bills create uncertainty. He said Article II, Section 8, relating to sessions of the General Assembly, is well-drafted, providing for a year-round legislature. He said Ohio is one of the few states whose legislature is full time. He said Section 8 also provides for a special session to be called by proclamation. Mr. Weisenberg suggested that Section 8 be amended to provide that, in a post-general-election period of time, the General Assembly may be reconvened only by a proclamation from the governor or a proclamation from the leadership of the General Assembly to address a singular specific issue that could not be subject to unrelated or extraneous issues being added on. He said the lame duck session is not in the best interest of the public or the General Assembly.

Mr. Weisenberg continued that the lame duck session results in legislation that violates the one-subject rule in Article II, Section 15(D). For this reason, he said if Section 8 is amended to allow post-election session only by proclamation, the section also should be amended to prevent extraneous issues being tacked on to a bill being considered at that time.

Mr. Asher said he shares some of Mr. Weisenberg's concerns, but asked if there are some ways the legislature could adopt rules and procedures that would resolve the problems.

Mr. Weisenberg said the General Assembly has the authority to establish its own rules, which it does every session. He said the legislature needs that ability to be sure the way it conducts itself stays within Article II.

Mr. Asher said if an issue is under consideration prior to the election, and further hearings and a vote occur in the lame duck, that is not the same as a situation in which the issue suddenly springs up during the lame duck session. He wondered if the rule could be that no items would be addressed unless there was a previous public discussion or hearing.

Mr. Weisenberg said there can be more than one right answer, and that different proposals could be examined. He said there are issues that the General Assembly will consider over the entire biennium, for example the recodification of criminal statutes.

Mr. Asher said he has respect for the General Assembly, but becomes distressed when he sees the General Assembly subject to substantial criticism by significant parties, such as editorial boards and good government groups. He said this issue is something the General Assembly might address to acknowledge this does not seem to be the way a legislature ought to operate. He expressed hope that Mr. Weisenberg's comments would encourage that discussion.

Mr. Weisenberg said "Our society has become cynical about our public institutions; there is an erosion of public trust and confidence in government," noting that his proposal could be a way help restore public confidence in the system. He said what has troubled him personally is a sense that the public does not know or understand what government does, and his proposed change may be a way to take a positive step in Ohio.

Chair Mills thanked Mr. Weisenberg for his comments.

Turning to the issue of Congressional redistricting, Chair Mills said there was nothing new to report, and there have been no meetings on that topic in the last month. He noted a story in the Columbus *Dispatch* indicating the governor wants to deal with Congressional redistricting in the upcoming state budget.

Looking ahead, Chair Mills indicated his intention is for the committee to meet in February, and that the committee would continue discussion of the reports and recommendations as it works through Article II.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned at 12:01 p.m.

Approval:

The minutes of the January 12, 2017 meeting of the Legislative Branch and Executive Branch Committee were approved at the March 9, 2017 meeting of the committee.

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Frederick E. Mills, Chair

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Paula Brooks, Vice-chair

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE
LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, FEBRUARY 9, 2017

Call to Order:

Vice-Chair Paula Brooks called the meeting of the Legislative Branch and Executive Branch Committee to order at 2:30 p.m.

Members Present:

A quorum was not present, with Vice-chair Brooks and committee members Davidson and Taft in attendance.

Approval of Minutes:

There being no quorum, the minutes of the January 12, 2017 meeting of the committee were not approved.

Presentations and Discussion:

Shari L. O'Neill
Interim Executive Director and Counsel
"Constitutional and Statutory Provisions Related to the Speech or Debate Privilege"

Vice-chair Brooks recognized Shari L. O'Neill, interim executive director and counsel, for the purpose of presenting on legislative privilege as applied to legislative staff. Based on a fifty-state survey, Ms. O'Neill said nearly all states provide some type of protection to legislators when performing their legislative duties, with most providing both a speech or debate privilege that protects legislators from having to testify or answer in any other place for statements made in the course of their legislative activity, and a legislative immunity that protects legislators against civil or criminal arrest or process during session, during a period before and/or after session, and while traveling to and from session. She noted only Florida and North Carolina lack a constitutional provision relating to legislative privilege or immunity, although a North Carolina

statute protects legislative speech and the Florida Supreme Court has recognized a legislative privilege as being available under the separation of powers doctrine.

Addressing whether any states mention or protect legislative staff in their constitutional provisions relating to legislative privileges and immunities, Ms. O'Neill indicated no state constitutions provide this protection, although statutory protections are available in at least some states.

Reviewing state statutory provisions, Ms. O'Neill noted that several states expressly protect communications between legislators and their staff, particularly in the context of discovery requests in a litigation setting. She explained that, although Ohio's statute, R.C. 101.30, requires legislative staff to maintain a confidential relationship with General Assembly members and General Assembly staff, it does not expressly provide a privilege to legislative staff. She said R.C. 101.30 also does not indicate that legislative documents would not be discoverable, and does not address whether legislative staff could be required to testify in court about their work on legislation. She added that the statute does not discuss oral communications between legislators and staff or expressly address communications that may occur between interested parties and legislative staff on behalf of legislators.

Vice-chair Brooks thanked Ms. O'Neill for her presentation.

Sarah Pierce and Bridget Coontz, Assistant Attorneys General
Constitutional Offices of the Ohio Attorney General
"Legislative Privilege in a Litigation Setting"

Vice-chair Brooks introduced Sarah Pierce and Bridget Coontz, two assistant attorneys general from the Constitutional Offices of the Office of the Ohio Attorney General, to present on the topic of legislative privilege in a litigation context. Ms. Pierce indicated that she and Ms. Coontz provide representation to General Assembly members in legal matters that arise in the course of legislators' official duties. She said there are few Ohio cases discussing legislative privilege, and Ohio courts often analyze the speech or debate clause as being co-extensive of the federal clause.

Ms. Pierce said the first case to discuss the topic at any length is *City of Dublin v. State*, 138 Ohio App.3d 753, 742 N.E.2d 232 (10th Dist. 2000), a case involving a challenge to a budget bill. In that case, the plaintiff served a discovery request that included noticing a sitting senator for deposition and submitting interrogatories to General Assembly members and their staffs. She said the trial court quashed all of the discovery requests on the ground of privilege. Ms. Pierce indicated that when the case was appealed to the Tenth District Court of Appeals, the appellate court decision included an extensive analysis of legislative privilege, extending the privilege to all meetings and discussion. She said, however, the court did allow interrogatories to go to the lobbyists who had meetings with legislators.

Ms. Pierce described a second case relating to legislative privilege, *Vercellotti v. Husted*, 174 Ohio App.3d 609, 2008-Ohio-149, 883 N.E.2d 1112, in which the plaintiffs noticed depositions of sitting General Assembly members, as well as one legislative aide and one member of the Legislative Service Commission. The trial court granted a protective order preventing legislative members from having to appear for deposition. A Legislative Service Commission employee testified at a hearing about the committee meeting itself, but the state successfully asserted that conversations with legislators were privileged.

Ms. Pierce described that her office has raised legislative privilege in a number of cases. She identified several cases in which motions to quash subpoenas were granted, or where subpoenas were withdrawn, but said these issues were resolved without a court decision or analysis. She said when her office responds to discovery requests, it relies on R.C. 101.30 to assert a confidential relationship between the General Assembly and legislative staff.

Committee member Jo Ann Davidson asked whether "legislative staff" is considered to be the Legislative Service Commission staff or the General Assembly staff. She said, if one were to ask a legislator, he or she would think it means the legislator's own staff. Ms. Pierce said that distinction has not caused a problem, and that the terms are defined in R.C. 101.30 for the specific purposes of that statute.

Vice-chair Brooks asked whether the presenters see a need for a change to Article II, Section 12. Ms. Pierce said she can only speak to what has happened in litigation and how the parties and the courts have addressed the issue. She said the issue does come up, and that there is "a deep body of case law on the federal level that the federal courts draw from."

Vice-chair Brooks asked whether legislators voluntarily comply with discovery requests. Ms. Coontz said some are willing to testify about their communications. She added that the courts generally follow the wishes of the legislative member. She said, in the typical case, members are non-parties, and courts are reluctant to pull in members and staff for testimony.

Vice-chair Brooks asked whether the presenters have looked at how other states handle the issue. Ms. Coontz said they had not.

Vice-chair Brooks thanked Ms. Pierce and Ms. Coontz for their comments.

Moving forward to upcoming topics, Vice-chair Brooks asked for an update on sections the committee still needs to review.

Ms. Davidson suggested that the committee begin considering some issues from the executive branch sections in Article III. Vice-chair Brooks stated that she would confer with Chair Fred Mills regarding the best way to move forward, and that the committee could make further plans at its meeting in March.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned at 3:03 p.m.

Approval:

The minutes of the February 9, 2017 meeting of the Legislative Branch and Executive Branch Committee were approved at the March 9, 2017 meeting of the committee.

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Frederick E. Mills, Chair

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Paula Brooks, Vice-chair

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE
LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, NOVEMBER 12, 2015

Call to Order:

Chair Fred Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 2:31 p.m.

Members Present:

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

Approval of Minutes:

The minutes of the October 8, 2015 meeting of the committee were approved.

Presentations:

Update on Issue 1 Election Results – Legislative Redistricting

Steven C. Hollon
Executive Director

Chair Mills first recognized Executive Director Steven C. Hollon, who gave an update on the November 3, 2015 election results for State Issue 1 ("Issue 1"), involving legislative redistricting. Director Hollon briefly described the features of House Joint Resolution 12, adopted in the 130th General Assembly and submitted to voters as Issue 1 on the ballot. Director Hollon indicated that the issue passed, with a vote of 71.64 percent in favor and 28.54 percent against.

Article II, Section 15 (D) – One Subject Rule

John J. Kulewicz
Partner
Vorys, Sater, Seymour & Pease

Chair Mills then recognized Attorney John Kulewicz, of the law firm of Vorys, Sater, Seymour & Pease, who presented to the committee on the topic of the one-subject rule contained in Article II, Section 15(D).

Mr. Kulewicz said the rule raises a multitude of issues for consideration. He said Ohio courts originally took a hands-off approach and the legislature enforced the rule itself, adding that, recently, Ohio courts have shown a significant interest in the rule, and it has gained traction outside the legislature. He said courts now invalidate legislation that goes against the rule, and this is a new era for the one-subject rule.

Describing the history of the rule, he said there was little substantive debate about the purpose of it at the 1851 Constitutional Convention. He said the intent of the framers, as discussed by the Ohio Supreme Court in *Pim v. Nicholson* [6 Ohio St. 176 (1856)], is that its purpose is to prevent logrolling. He said the Court in *Pim* held it to be a directory provision only, and that the rule should be enforced by the General Assembly rather than the courts. Mr. Kulewicz described how, in the 1980s, that approach changed, noting that in *State ex rel. Dix v. Celeste* [11 Ohio St.3d 141, 464 N.E.2d 153 (1984)], the Court took the opportunity to analyze whether there was a relationship between the subjects in the legislation. The following year, in *Hoover v. Franklin Cty. Bd. of Commrs.* [19 Ohio St. 3d 1, 482 N.E.2d 575 (1985)], the Court sent the case back to common pleas court for a determination of whether there was more than one subject and, if so, whether the content of the legislation defied rationality.

Mr. Kulewicz described how, in *State ex rel. Hinkle v. Franklin Cty. Bd. of Elections* [62 Ohio St.3d 145, 580 N.E.2d 767 (1991)], the Ohio Supreme Court imposed a remedy, a development that was significant because, in so doing, the Court severed the offending portion of the act. He said former Ohio Supreme Court Justice Andrew Douglas's dissent in that case laid out issues that have been of great significance since then. The Court continued to apply the remedy of severing a portion of the act that it declared invalid in *State ex rel. Ohio AFL-CIO v. Voinovich* [69 Ohio St.3d 225, 631 N.E.2d 582 (1994)], as well as in *Simmons-Harris v. Goff* [86 Ohio St.3d 1, 1999-Ohio-77, 711 N.E.2d 203 (1999)].

Mr. Kulewicz described *State ex rel. Ohio Academy of Trial Lawyers v. Sheward* [86 Ohio St.3d 451, 715 N.E.2d 1062 (1999)] as "a bombshell of a case." He said in *Sheward*, the Ohio Supreme Court decided that the tort reform bill at issue dealt with so many different topics that the entire bill had to be rejected. He identified the Court's rationale as being that any attempt to identify a primary subject would constitute a legislative exercise. Suggesting the case of *In re Nowak* [104 Ohio St.3d 466, 2004-Ohio-6777] was the Court's "tipping point," Mr. Kulewicz said *Nowak* rejected *Pim*'s declaration that the one-subject rule was directory only, instead concluding the rule is mandatory. He said that decision redefined the interpretation of the one-subject rule, creating a new generation of litigation.

Mr. Kulewicz then mentioned the pending Ohio Supreme Court case of *State ex rel. Ohio Civ. Serv. Emps. Assn. v. State* [2013-Ohio-4505, 2 N.E.3d 304 (10th Dist.), Supreme Court Case Number 2014-0319], in which the Court will decide whether the Tenth District Court of Appeals properly remanded the case to common pleas court for an evidentiary hearing to determine whether the one-subject rule had been violated.

Mr. Kulewicz concluded that the one-subject rule, a long-dormant provision, is now suddenly an active provision. He added that governors have independent authority to enforce the constitution, and there is now constitutional support for a governor using his veto power on that basis.

Mr. Kulewicz identified the various tests courts apply when legislation is challenged as contradicting the one-subject rule, including: (i) whether there is disunity but not a plurality of subject matter; (ii) whether there is a common purpose to the legislation; and (iii) whether the combination of subjects in the challenged bill has a rationality to it. He said the result is that the General Assembly now must consider the breadth of the legislation it is passing.

He also identified that an expressed rationale for the rule is that it is intended to impede logrolling. But, he said, the type of logrolling the rule prevents is more than one subject in a bill. He said the rule doesn't prevent multiple bills that address one problem. He asked whether logrolling is necessarily something to be condemned.

Reviewing national trends regarding one-subject rules, Mr. Kulewicz said Ohio is one of 43 states that have such a rule, but that there are categorical differences. He said Ohio is one of a few states that regarded the rule as directory. He said 14 states, excluding Ohio, exempt appropriations bills from application of the one-subject rule, while six states confine appropriations bills to appropriations. He said in two states the rule is limited only to the appropriations bill, while 13 states exempt codification and revision bills from application of the rule.

He said the rule, as set out in the provision, has two parts, requiring that no bill shall contain more than one subject, and that the bill's purpose should be expressed in its title. He said 12 state constitutions allow the rule to void legislation only as to subjects not included in the title.

Having concluded his remarks, Mr. Kulewicz then invited questions from the committee.

Representative Michael Curtin asked whether there would be any merit for the General Assembly, through legislation, to attempt to incorporate recent case law into a statute that would provide a road map of what should and should not be done. Mr. Kulewicz answered that idea may have merit, but the risk is that the constitutional provision would still prevail over the statutory provision. He added it also might be hard to avoid a risk that, as in *Sheward*, a court would be concerned that the legislature would be trying to tell the court how to rule.

Rep. Curtin followed up, noting that state constitutions do not contain definitions, and asking how constitutional change might bring more specificity to the rule. Mr. Kulewicz answered that one could embed in the constitution one or the other of these one-subject rule tests, a requirement

of a common purpose or rational relationship, for example. He said that would not end litigation, but would be a step closer to defining what "one subject" is.

Vice-chair Paula Brooks agreed, saying she thinks that clarification would help both the General Assembly and legal practitioners. Mr. Kulewicz said former Ohio Supreme Court Justice Evelyn Stratton, and others, have expressed frustration that it is hard to define what the rule means. He said the rule made sense in 1851. Today, with technology, he said "we have searchable documents and can look right away to see if a different topic is in a bill." He wondered whether it is worth the time to struggle with this one-subject issue.

Ms. Brooks asked Mr. Kulewicz whether he has a favorite model of interpretation as to the rule. Mr. Kulewicz said no, but that he does like the rational relationship test. He said, however, this does not prevent litigation, as litigation can occur on the issue of whether there is a rational relationship.

Committee member Herb Asher asked, in states that have the rule but do not apply it to appropriations bills, whether there is evidence that appropriations bills have been used to "load up" on subjects in order to get legislation considered. Mr. Asher noted that legislators often have ideas and are looking for a vehicle to attach legislation to, wondering if part of the problem is that the practice of the legislature is such that members themselves are looking for some opportunity or some vehicle. Mr. Kulewicz said he has no evidence that those states are different.

Governor Taft asked whether Mr. Kulewicz thinks the legislature has clear guidance based on the case law, wondering about the impact of *Sheward*. Mr. Kulewicz noted that the majority in *Sheward* said if the one-subject rule was interpreted so broadly as to allow what the General Assembly tried to do with tort reform, one could redo the entirety of state law in two bills. Mr. Kulewicz said the General Assembly has more guidance now than 15 years ago; then there were no consequences for the failure to observe the one-subject rule. He said now the General Assembly knows the courts have rejected rationales that are unsustainable or meaningless as being too broad. So there is some risk involved in enacting legislation that goes too far.

Senator Charleta Tavares asked whether there are any states that have provisions that automatically void legislation that violates the one-subject rule, or whether the determination always requires a court challenge. Mr. Kulewicz answered that there are several states whose constitutions say it shall be void, but that it still is not self-executing, and would require someone to challenge the legislation.

Sen. Tavares followed up, asking whether any states are contemplating revising their constitutional provisions requiring legislation to have only one subject. Mr. Kulewicz said the United States Constitution does not limit Congress in what is included in bills, but there are several efforts underway to attempt to add a one-subject rule.

Committee member Kathleen Trafford offered that one thing the General Assembly could do is to write a very short statute of limitations.

There being no further questions, Chair Mills thanked Mr. Kulewicz for his presentation.

Congressional Redistricting

Steven C. Hollon
Executive Director

Chair Mills then recognized Director Hollon, who presented to the committee a draft of a report and recommendation on the subject of Congressional redistricting. Director Hollon indicated that the report and recommendation provides a history of how Congressional districts have been drawn in Ohio, describes two joint resolutions pending in the General Assembly proposing to change the procedure by having a commission undertake drawing district lines, and outlines various presentations that have been made to the committee on the subject of redistricting. Director Hollon indicated that the report and recommendation does not describe the committee's recommendation with regard to whether and how to reform the Congressional redistricting procedure because the committee has not yet given staff guidance on what it would like to do.

There were no questions for Director Hollon on the report and recommendation.

Committee Discussion

Congressional Redistricting

Chair Mills then indicated that the committee had just received a draft of a new joint resolution drafted by the Legislative Service Commission, identified as "LR 131 0157." He said this draft had been requested by Representatives Kathleen Clyde and Mike Curtin, and was an attempt to reconcile the differences between H.J.R. 2, the House version of a Congressional redistricting resolution, and S.J.R. 2, the Senate version. Chair Mills then invited Rep. Clyde and Rep. Curtin to lead the committee through the differences in the two introduced resolutions and how they have been resolved in the new draft.

Rep. Clyde began by saying "we had a big victory as a Commission and as a state with the success of Issue 1" on the November 2015 ballot. She said the message was clear that voters want to choose their lawmakers, not be chosen by them. She said "We have a mandate from the voters," noting that three-fourths of seats in Congress belong to one party when only half the votes went to that party. She said that makes Ohio one of the most unfair jurisdictions in the world.

She then identified changes in the new draft resolution from the original H.J.R. 2 that she and Rep. Curtin introduced. She said, in the new version, they combined the Congressional redistricting provisions with the legislative provisions, since the same commission will be drawing district lines by using virtually the same rules. She also noted that the result in the U.S. Supreme Court's decision in *Arizona State Legislature v. Arizona Indep. Redistricting Comm.*, 576 U.S. ___, 135 S.Ct. 2652 (2015), means that a commission such as is created by the proposed amendment is constitutionally valid. She said H.J.R. 2 was drafted before the *Arizona State Legislature* decision, and so it has a conditional provision that would have accounted for a

different outcome in the case. She added, now that the case is decided, the new version took those parts out. Rep. Clyde added that the new draft also added a feature of S.J.R. 2 that prevents a sitting member of Congress from being on the commission. In addition, she said the draft removes a provision allowing a county to be split under certain circumstances. She said Congressional districts are larger than state districts, and so that feature is not needed for Congressional redistricting. She added they were concerned about giving the map drawers too much authority to draft alternative rules, and so the new draft is more restrictive in that regard.

Rep. Clyde indicated that the provisions in H.J.R. 2 and S.J.R. 2 are virtually the same regarding the population, but that they chose the language in S.J.R. 2 because they liked it a little better. She said they adopted the S.J.R. 2 provision regarding the court's ability to redraw the lines. In conclusion, Rep. Clyde said they took the best from both the House and Senate versions.

Rep. Curtin thanked the committee for its "yeoman's work" on the issue of redistricting, saying that because Issue 1 was a success at the polls "something good and historic was done." He said this is the moment to act on Congressional redistricting, because "once we get into the 2018 election cycle, and we have a sense of how the winds are blowing, we are going to be immobilized in dealing with this issue. So we have a window; after that we don't have that window for a very long time." He noted an Akron *Beacon Journal* editorial describing that if it isn't done now, it will be 17 years before there is another chance. He said if there is no reform in time for the 2020 Census, there will not be reform until the 2030 Census. He said he would hope the momentum will continue in this committee, and that he wants to keep the bipartisan spirit going for the rest of this year. He said he and Rep. Clyde aren't married to the details in the document, so the real project is not to "make the perfect the enemy of the good."

Chair Mills then opened up the floor for questions.

Gov. Taft asked whether the new draft changes anything approved by voters in state Issue 1. Rep. Clyde and Rep. Curtin said that nothing is changed. Gov. Taft asked whether it included a restriction on a member of Congress being on the proposed commission, recommending that if this is not in the draft it should be added. Rep. Curtin agreed with the point, saying they would be sure it is included.

Sen. Tavares agreed with Rep. Curtin that it is important to keep the bipartisan spirit, saying she would agree a sitting member of the General Assembly should not be on the proposed redistricting commission.

Ms. Trafford asked whether it would be possible for the committee to make a recommendation that left the details to be decided by the General Assembly. Chair Mills said the committee has that option, but that he would prefer the committee to come up with the best language to submit to the General Assembly. He said he would like to see a very thorough, thoughtful product come out of this committee. "We did all the heavy lifting in S.J.R. 1 (introduced in the 130th General Assembly), I would like to get a draft as perfect as we can, knowing the General Assembly would change things."

Rep. Curtin said the legislature has sessions in December, and that if the committee is in agreement, the committee could have the Legislative Service Commission provide a draft.

Ms. Brooks asked about the procedure for approving a report and recommendation. She wondered if the committee would need another special meeting to comply with rules of submitting to the full Commission by the end of the year. Chair Mills said the committee can't do it in that time frame, noting that the General Assembly has until August 2016 to act in time to put it on the ballot. He said he is not sure the committee needs to rush to finish the process by the end of this calendar year, and that he does not intend to call a special meeting in December. But, he said, by the next meeting, the committee should be prepared to discuss these issues. He said they could use the meeting as a drafting session in order to have a thoughtful work product.

Ms. Brooks asked whether the committee could call a special session for the purpose of concluding its work on Congressional redistricting.

Chair Mills said the committee has met as much or more than any other committee, and that he is not in favor of bringing people back to decide something that doesn't need to be decided until August.

Mr. Asher said the committee's goal is to get something finished as early in the new year as possible. He said, if it is January or February, it gives the legislature ample time to work on this.

Chair Mills said that is a fair statement.

Rep. Curtin reiterated with a "personal plea," saying it is important not to wait 17 years to get reform passed.

Sen. Tavares said, in light of the conversation about the time frame, she would agree with Mr. Asher, and that a recommendation should be made sooner rather than later. She said she would rather put it to task as immediately as possible, January or February at the latest. She said otherwise it does not give the General Assembly much time to consider the issue. She said "the longer we wait, the more difficult it becomes, because some members of Congress on both sides of the aisle will be weighing in and will want to do nothing." She said, "If we believe in the voters and what we did with Issue 1, we should be hasty; do it right, but get it on the ballot next year."

Chair Mills agreed that next year is appropriate, but it should be correct. He said "hasty implies sloppy, so let us do it carefully."

Rep. Clyde said she echoes that one way to move quickly is that the committee has a good model in Issue 1, saying she is heartened that "we can come together as a Commission."

Chair Mills then recognized Catherine Turcer, policy analyst for Common Cause Ohio, who addressed the committee on the subject of Congressional redistricting.

Ms. Turcer said, with regard to Issue 1, that "voters changed the quality of democracy," and that she was encouraged by this result and hopes that the election results will help spur Congressional redistricting reform.

Chair Mills also recognized Richard Gunther, professor emeritus of Political Science with The Ohio State University. Professor Gunther urged the committee to move forward with the proposals by Rep. Clyde and Rep. Curtin. He said he has compared S.J.R. 2 and H.J.R. 2, and that "they are well rooted in Issue 1." He said he is very concerned that the committee move forward quickly, noting that the negotiations that created Issue 1 were extremely difficult. He emphasized that "it is even more urgent to move forward for Congress than for the state legislature," noting that the problems with Congressional districts are worse and that the electoral disproportionality is twice as bad as it is for the General Assembly districts. He added that the lack of term limits for Congress means members have a term for life. He concluded that he is "very concerned" about a time line that has an August deadline, because the alternative is a citizen's initiative. He said if, by January, there is no indication that the legislature will act, there will be a citizen's initiative that will move forward, so if the committee wants to maintain control over the process, it should keep the process moving forward at a reasonable pace.

Chair Mills clarified his earlier remark, saying he did not mean the committee should wait until August to act, rather, this is the General Assembly's timeline for placing an issue on the ballot.

Sen. Tavares thanked Professor Gunther, as well as the League of Women Voters and Common Cause for their work on redistricting.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned at 4:05 p.m.

Approval:

The minutes of the November 12, 2015 meeting of the Legislative Branch and Executive Branch Committee were approved at the January 14, 2016 meeting of the committee, and approved as corrected at the March 9, 2017 meeting of the committee.

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Frederick E. Mills, Chair

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Paula Brooks, Vice-chair

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE
LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, NOVEMBER 10, 2016

Call to Order:

Chair Fred Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 2:17 p.m.

Members Present:

A quorum was not present with Chair Mills and committee members Curtin, Davidson, and Taft in attendance.

Approval of Minutes:

There being no quorum, the minutes of the October 13, 2016 meeting of the committee were not approved.

Presentation:

"Legislative Privilege in State Legislatures"
Steven F. Huefner, Assistant Professor of Law
Moritz College of Law
The Ohio State University

In relation to the committee's review of Article II, Section 12 (Privilege of Members from Arrest, and of Speech), Chair Mills recognized Professor Steven F. Huefner of the Moritz College of Law to present on the topic of legislative privilege in state legislatures. Prof. Huefner said he comes to the question of legislative privilege from having spent five years assisting the United States Senate in efforts to protect and enforce its privileges, including those provided by Article I, Section 6, Clause 1 of the United States Constitution.

He indicated that, after coming to Ohio in 2000, he wrote an article about state legislative privilege provisions based on his observations of how those provisions were being interpreted in different ways than he was familiar with in the U.S. Senate.[1]

Prof. Huefner said, particularly with regard to the *DeRolph* litigation,[2] there were multiple occasions in which staffers in the General Assembly were asked and in some cases required to provide testimony regarding how the legislature dealt with the school funding issue. He said the existence of the legislative privilege is about protecting the separation of powers, a concept that goes back to when the British Parliament was subservient to the Crown. He said, in the 17th century, drama ensued when King Charles I entered Parliament seeking offenders he wanted to punish for treasonous behavior. Prof. Huefner said Parliament was able to resist that intrusion, but the incident resulted in the English Bill of Rights including the predecessor of the speech or debate clause.

He said the clause is intended to protect members of a legislative body from retaliation by the executive branch for how they perform their official duties. The provision derives from the concept that, while all public representatives are subject to political retaliation, they should not be subject to retaliation by the executive or judicial branch, which could use their power to make the legislative branch subservient.

Prof. Huefner said provisions protecting legislators from retaliation for speech or debate remain, even though the clashes in England have not been part of the American experience.

Noting there are justifications for continuing the privilege, Prof. Huefner nonetheless commented that the countervailing pressure is for legislative activities to be open and public. The need for transparency sometimes includes pressure to force legislatures and their staffs to be even more forthcoming and provide information. He noted the trial court required testimony from a staffer while protecting the legislators themselves. He said the privilege should apply to staff as well as to legislators, but it is not always interpreted that way in the states.

Article II, Section 12 extends a privilege against arrest as well as the speech or debate privilege. Prof. Huefner said he had occasion to help the U.S. Senate understand the federal counterpart. He described an incident in the late 1990s when West Virginia Senator Robert Byrd was stopped on his way back to his Washington, D.C. suburban home and, when asked for identification, he produced his U.S. Senate identification card. The traffic officer decided not to cite him, but the story that became public was that the officer said he could not cite Sen. Byrd because, as a member of Congress, he was privileged against arrest. Prof. Huefner said that is not true; rather, it is a privilege against a citizen's civil arrest, which was occasionally used to detain members of a legislative body to prevent them performing their legislative duty. The privilege only excuses

[1] Steven F. Huefner, *The Neglected Value of the Legislative Privilege in State Legislatures*, 45 Wm. & Mary L. Rev. 221 (2003), http://scholarship.law.wm.edu/wmlr/vol45/iss1/4 (last visited Nov. 14, 2016).

[2] *See DeRolph v. State*, 78 Ohio St.3d 193, 1997-Ohio-84, 677 N.E.2d 733 (*DeRolph I)*; *DeRolph v. State*, 89 Ohio St.3d 1, 2000-Ohio-437, 728 N.E.2d 993 *(DeRolph II)*; *DeRolph v. State*, 93 Ohio St.3d 309, 2001-Ohio-1343, 754 N.E.2d 1184 *(DeRolph III)*; and *DeRolph v. State*, 97 Ohio St.3d 434, 2002-Ohio-6750, 780 N.E.2d 529 *(DeRolph IV).*

members of the legislature from being arrested in all cases except treason, felony, and breach of the peace.

Addressing the prohibition against legislators being questioned elsewhere for any speech or debate, Prof. Huefner described what conduct and types of questioning is covered. He said by its terms the provision protects members of the legislature, but he thinks for that protection to be fully effective, legislative staff members ought to be within the scope of that privilege if the legislative member desires the privilege to cover the staffer. He said it is the member's privilege to encompass the staff that is serving the member in connection with the work they are doing. Prof. Huefner said the privilege should cover broadly all the essential legislative activities, a privilege that may go beyond the official duties of the legislators. He noted there are duties performed that may not be expressly legislative.

He said the remaining question is whether the privilege should be construed to protect the legislators only against liability or whether it also protects them against having to testify. The provision itself states they shall not be questioned elsewhere. He remarked that, if that statement is only taken at face value it is easy to argue legislators cannot be subpoenaed about what they have done, even if they are not defendants. But, he said, although this is how federal courts construe the rule, this is not always how state courts have construed it. He said the privilege against questioning includes being required to produce documents.

He said the privilege raises questions about freedom of information laws, commenting that an argument could be made that an individual legislator could extend his or her privilege to the entire legislative body. He said, at the same time, the privilege only provides that members should be free from questioning elsewhere, meaning outside the legislature, so that the legislature is always accountable to the public for what they do in legislative session, including ethics investigations, deciding what parts of the process to conduct in public session, and by videotaping floor and committee sessions. He said the legislature can choose to create paper documents as a way of making its activities more readily available to the public. Despite this, he said, it is his view that legislators need to be able to a degree to insulate themselves against the possibility that disgruntled constituents or other branches of government might be able to get information to harass them.

Prof. Huefner having concluded his remarks, Chair Mills asked committee members for questions or comments.

Representative Mike Curtin asked if Prof. Huefner could summarize where Ohio may be deficient in defining the privilege.

Prof. Huefner said his worry is that Ohio courts, which have not addressed the topic as frequently as federal courts, have been too willing to see the privilege as not extending to staff. He said he also is concerned that the courts may see the privilege as involving liability and evidentiary use of documents, but not as privileging testimonial inquiry about legislative activity. He said that is what happened in the *City of Dublin* case.

He said the deeper question is whether this is a deficiency in Ohio jurisprudence that should be remedied through judicial construction or through textual change in the provision. He said he is not arguing for a textual change in the provision. He said he will give it more extensive thought.

He said he is not aware of much in the way of change to the language of these analogous provisions in other states that trace back to the founding constitutions. Even when rewritten, the provisions do not demonstrate a substantive change. He said there could be reason to scrap that relatively brief textual language and have something more detailed. But, he cautioned, "once you start putting in detail you have to worry about what you have left out."

Rep. Curtin followed up, asking whether there are cases to indicate that the privilege would extend not just to sitting legislators but to former legislators if litigation is brought after their service is over.

Prof. Huefner said he is sure at the federal level, at least in dicta, there are cases that make it clear that the privilege is ongoing, and does not just protect during the term of service. He said that sometimes raises interesting questions when the legislator has the privilege but has died, causing the question to become who asserts the privilege when someone seeks information in the legislator's file.

Committee member Bob Taft asked whether the privilege against arrest language is obsolete. Prof. Huefner said he is not aware that the civil arrest power has been used recently, thus, in theory the power is still there, just not used. He said he can see a stronger argument for a revision for that language rather than revising the speech or debate clause, to clarify what is being excluded. He said a revision could say "privileged from civil arrest but not criminal arrest." He said he needs to think more about whether a change is justifiable.

Committee member Jo Ann Davidson asked about a situation where, if the legislature determines it needs a quorum, law enforcement can be instructed to bring in members. She wondered if that situation relates to this provision.

Prof. Huefner said it is appropriate for the institution to have that power, but he hopes it is rarely used. He said, historically, it is possible to have the sergeant-of-arms drag people to the floor, but that is different from civil arrest.

Rep. Curtin asked, regarding the *DeRolph* case, whether legislators were compelled to testify or whether their participation was voluntary. Prof. Huefner said wherever the privilege applies it can be waived, and it is not a barrier that prevents giving the testimony if the testimony is voluntarily offered. He said the legislators who testified in *DeRolph* either knowingly waived or were not aware of the privilege, he is not sure which.

Ms. Davidson, recalling her participation as a witness in that litigation, said legislators did testify at the request of the defense, which was the state, so their participation was voluntary.

Chair Mills asked whether there was a subpoena issued in the case involving the LSC staffer. Prof. Huefner said he does not know if they asserted the privilege, but they were subpoenaed. He said there was a successful motion to have those subpoenas quashed.

Ms. Davidson asked whether there is a statutory provision relating to LSC as far as records are concerned, restraining records from being distributed as a protection to the legislator.

Prof. Huefner said on a couple of occasions the General Assembly has desired to pass some statutory provisions that would provide the same type of protection. But, he said, there is a strong argument that even without that provision the documents that LSC produces are for members of the General Assembly related to legislation, and so should be covered by the speech or debate clause. So, he said, the statute does not require interpreting what the constitutional provision means. He said Gov. Taft vetoed one piece of legislation because it provided more protection than the speech or debate would have provided, and the provision itself said it was intended to be redundant, but there was concern about how the court would interpret it. The General Assembly has wanted to use statutory means to be sure its members were protected, but in his view the speech or debate clause would provide that protection.

Chair Mills remarked that the committee has been reviewing Articles II and III, to see what may need to be modernized. He said, in preparation for discussion of Article II, Section12, he would like to follow up with Prof. Huefner to see if there are some things that maybe could be made clearer.

Prof. Huefner said the Kansas Constitution has one more word in it that may be relevant: it protects against legislators being questioned about speech and debate "or written document." Prof. Huefner suggested that might be a change to consider.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned at 3:02 p.m.

Approval:

The minutes of the November 10, 2016 meeting of the Legislative Branch and Executive Branch Committee were approved at the December 15, 2016 meeting of the committee, and approved as corrected at the March 9, 2017 meeting of the committee.

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Frederick E. Mills, Chair

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Paula Brooks, Vice-chair

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Legislative Branch and Executive Branch Committee

Planning Worksheet
(Through February 2017 Meetings)

Article II - Legislative

Sec. 2 – Election and term of state legislators (1967, am. 1992)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**3.12.15**	**4.9.15**	**4.9.15**	**1.14.16**			

Sec. 3 – Residence requirements for state legislators (1851, am. 1967)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 4 – Dual office and conflict of interest prohibited (1851, am. 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 5 – Who shall not hold office (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 6 – Powers of each house (1851, am. 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 7 – Organization of each house of the General Assembly (1851, am. 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 8 – Sessions of the General Assembly (1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 9 – House and Senate Journals (yeas and nays) (1851, am. 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 10 – Rights of members to protest (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 11 – Filling vacancy in House or Senate (1851, am. 1961, 1968, 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 12 – Privilege of members from arrest, and of speech (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 13 – Legislative sessions to be public; exceptions (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 14 – Power of adjournment (1851, am. 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**12.15.16**	**N/A**	**12.15.16**				

Sec. 15 – How bill shall be passed (1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 16 – Bills to be signed by governor; veto (1851, am. 1903, 1912, 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 20 – Term of office, and compensation of officers in certain cases (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 21 – Contested elections (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 22 – Appropriations (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 23 – Impeachments; how instituted and conducted (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 24 – Officers liable to impeachment; consequences (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 26 – Laws to have a uniform operation (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 27 – Election and appointment of officers; filling vacancies (1851, am. 1953)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 28 – Retroactive laws (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 29 – No extra compensation; exceptions (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 30 – New counties (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 31 – Compensation of members and officers of the General Assembly (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 32 – Divorces and judicial power (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 33 – Mechanics' and contractors' liens (1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 34 – Welfare of employees (1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 34a – Minimum Wage (2006)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 35 – Workers' compensation (1912, am. 1923)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 36 – Conservation of natural resources (1912, am. 1973)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 37 – Workday and workweek on public projects (1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 38 – Removal of officials for misconduct (1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 39 – Regulating expert testimony in criminal trials (1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 40 – Registering and warranting land titles (1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 41 – Prison labor (1912, am. 1978)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 42 – Continuity of government operations in emergencies caused by enemy attack (1961)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Article III - Executive

Sec. 1 – Executive department; key state officers (1851, am. 1885)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 1a – Joint vote cast for governor and lieutenant (1976)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 1b – Lieutenant governor duties assigned by governor (1976)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 2 – Term of office of key state officers (1851, am. 1954, 1992)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 3 – Counting votes for key state officers (1851, am. 1976)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 5 – Executive power vested in governor (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 6 – Governor to see that laws executed; may require written information (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 7 – Governor's annual message to General Assembly; recommendations for legislators (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 8 – Governor may convene special session of legislature with limited purposes (1851, am. 1912)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 9 – When Governor may adjourn the legislature (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 10 – Governor is commander-in-chief of militia (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 11 – Governor may grant reprieves, commutations and pardons (1851, am. 1995)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 12 – Seal of the state, and by whom kept (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 13 – How grants and commissions issued (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 14 – Who is ineligible for governor (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 15 – Succession in case of vacancy in office of governor (1976)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 17 – If a vacancy shall occur while executing the office of governor, who shall act (1976)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 17a – Filling a vacancy in the office of lieutenant governor (1989)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 18 – Governor to fill vacancies in key state offices (1851, am. 1969)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 19 – Compensation of key state officers (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 20 – Annual report of executive officers (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 21 – Appointments to office; advice and consent of Senate (1961)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 22 – Supreme Court to determine disability of governor or governor elect; succession (1976)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Article V – Elective Franchise (Select Provision)

Sec. 8 – Term limits for U.S. senators and representatives (1992)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 9 – Eligibility of office holders (1992)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Article IX - Militia

Sec. 1 – Who shall perform military duty (1851, am. 1953, 1961)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 3 – Appointment of militia officers (1851, am. 1961)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 4 – Power of governor to call forth militia (1851, am. 1961)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 5 – Public arms; arsenals (1851)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Article XI – Apportionment/Congressional Redistricting

Sec. 1 – Ohio Redistricting Commission (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved
Completed	**1.14.16**	**2.4.16**					

Sec. 2 – Representative for each house and senate district (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 3 – Ratio of representation in house and senate (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 4 – Formation of senate districts (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 5 – Term of senators on change of senate district boundaries (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 6 – General assembly districts; standards for drawing (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 7 – General assembly districts; change at end of decennial period (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 8 – Adoption of final plan; failure to adopt (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 9 – Supreme Court jurisdiction (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Sec. 10 – Severability of provisions (2015/2021)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

Article XIV - Ohio Livestock Care Standards Board (2009)

Sec. 1 – Ohio Livestock Care Standards Board (2009)							
Draft Status	Committee 1st Pres.	Committee 2nd Pres.	Committee Approval	CC Approval	OCMC 1st Pres.	OCMC 2nd Pres.	OCMC Approved

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OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

2017 Meeting Dates

April 13

May 11

June 8

July 13

August 10

September 14

October 12

November 9

December 14