

Co-Chair
Charleta B. Tavares
Assistant Minority Leader
15th Senate District



Co-Chair

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES FOR THE MEETING HELD THURSDAY, FEBRUARY 12, 2015

Call to Order:

Senator Tavares called the meeting of the Ohio Constitutional Modernization Commission ("Commission") to order at 1:30 p.m.

Members Present:

A quorum was present with Commission members Tavares, Amstutz, Beckett, Bell, Brooks, Clyde, Cole, Curtin, Davidson, Fischer, Jacobson, Mills, Obhof, Peterson, Readler, Sapphire, Skindell, Taft, and Trafford in attendance.

New Members: Rep. Bob Cupp, Rep. Nathan Manning, and Rep. Emilia Sykes

Approval of Minutes:

Minutes of the December 11, 2014 meeting were reviewed and approved.

Committee Reports:

Coordinating Committee

Senator Tavares recognized Kathleen Trafford, chair of the Coordinating Committee, for a report on the activities of the committee. Ms. Trafford reported that today the committee reviewed two reports and recommendations from the Judicial Branch and Administration of Justice Committee for form and to be sure requisite information is included in the report. The committee approved the reports and recommendations. The Commission will hear presentations on the reports and recommendations later in the report from the Judicial Branch and Administration of Justice Committee.

Public Education and Information Committee *Liaisons with Public Offices Committee*

Senator Tavares recognized Roger Beckett, chair of the Public Education and Information Committee, for a report on the joint meeting with the Liaisons with Public Offices Committee. Mr. Beckett also reported on behalf of Herb Asher, chair of the Liaisons with Public Offices Committee. Mr. Beckett discussed what Shaunte Russell, Commission communications director, is working on, regarding ways to share the work of the Commission with the public. Specifically, the committee is considering how to work with civic, and history organizations around the state

to help stimulate conversations about the constitution in schools. Mr. Beckett said the committee is also considering what role the Commission might have in relation to the redistricting proposal.

Education, Public Institutions, and Local Government Committee

Senator Tavares recognized Chad Readler, chair of the Education, Public Institutions, and Local Government Committee, for a report on activities of the committee. Mr. Readler reported the committee continues to work on Article VI, Section 2, specifically the “thorough and efficient” clause. The committee has spent the last two years discussing this section. The committee agrees “thorough and efficient” is hard to define, and this section could be clearer in terms of the constitutional command. There has been much debate, and the committee has heard from numerous presenters, regarding what the committee should take to the Commission. At the next meeting, the committee will move forward to address that language.

Finance, Taxation, and Economic Development Committee

Senator Tavares recognized Doug Cole, chair of the Finance, Taxation, and Economic Development Committee for a report on activities of the committee. Mr. Cole reported the committee heard a presentation from Steve Steinglass on how the state raises funds. Mr. Cole anticipates the committee will have some proposals to remove obsolete language at some point in the first half of this year.

Judicial Branch and Administration of Justice Committee

Senator Tavares recognized Judge Patrick Fischer, Vice-Chair of the Judicial Branch and Administration of Justice Committee for a report on activities of the committee. Judge Fischer deferred to Sen. Obhof who will bring forward the reports and recommendations on Article IV, Sections 19 (Courts of Conciliation) and 22 (Supreme Court Commission).

Bill of Rights and Voting Committee

Senator Tavares recognized Richard Saphire, chair of the Bill of Rights and Voting Committee for a report on activities of the committee. Mr. Saphire said the committee would be bringing forward reports and recommendations for Article I, Sections 2 (Right to Alter, Reform, or Abolish Government, and Repeal Special Privileges), 3 (Right to Assemble), and 4 (Bearing Arms;, Standing Armies; Military Powers) at the next meeting. The committee continues to discuss Article V, Section 6, and he hopes the committee will be prepared to offer a proposal in the near future.

Legislative Branch and Executive Branch Committee

Senator Tavares recognized Fred Mills, chair of the Legislative Branch and Executive Branch Committee for a report on activities of the committee. The committee discussed modification of Ohio’s legislative term limits, and heard a presentation from Frank Strigari, Senate Majority Counsel, on Senate Joint Resolution 1 (which was SJR 9 from the previous General Assembly) dealing with a compensation commission for public officials. The committee also discussed what role the Commission might have in promoting resolutions that have been adopted by the General Assembly.

Sen. Obhof then presented the reports and recommendations for Article IV, Sections 19 and 22.

Article IV, Section 19 (Courts of Conciliation)

Upon a first reading of this report and recommendation regarding Courts of Conciliation, there were no comments.

Article IV, Section 22, (Supreme Court Commission)

Upon a first reading of this proposal regarding the ability of the General Assembly to create a Supreme Court Commission, there were no questions or comments.

Both of the reports and recommendations will be brought back at the next meeting of the Commission.

Committee Discussion:

Redistricting

Mr. Mills then raised the issue of what role, if any, the Commission should play with regard to House Joint Resolution 12 (state legislative redistricting), which was adopted by the 130th General Assembly.

According to Mr. Mills, redistricting was the number one issue for the Legislative Branch and Executive Branch Committee. Many hearings were held and much testimony was given on the topic. The goal was to try to resolve perceived problems with the current redistricting plan. The General Assembly ultimately passed a very similar provision to what this committee had been discussing, so this is a difficult, if not unique, situation in which some of the committee's work led to the General Assembly taking action. Though it is not in the statutory charge to address constitutional amendments that arrive on the ballot by some method other than the committee's recommendations, the committee would like to explore this. Mr. Mills state that depending on the Commission's feeling about this, his committee could prepare a report and recommendation on the topic. He said he believes this is an appropriate way to deal with this issue.

Committee member Karla Bell asked about the content of HRJ 12 and wondered what it meant that a redistricting commission created by resolution would adopt a new plan using the same data. Chair Mills said the reference "same data" means the redistricting commission would use the most recent official census without updates.

Prof. Saphire said regardless of whether the Commission taking a position is a good idea, the authorizing statute is not necessarily consistent with this. He said there is an argument that the Commission would be going outside its charge by taking a position on an issue it did not generate.

Executive Director Steve Hollon located and quoted from the Commission's enabling statute, R.C. 103.61, which provides that the Commission is to study the Constitution of Ohio; promote an exchange of experiences and suggestions respecting desired changes in the Constitution; consider the problems pertaining to the amendment of the Constitution; and make

recommendations from time to time to the general assembly for the amendment of the Constitution.

Sen. Obhof offered to request something on this question from the Legislative Service Commission.

Committee member JoAnn Davidson observed that, as the Commission sends recommended issues to the General Assembly, the General Assembly may make some changes before it goes to the ballot. She said the Commission then could have the reverse of the current question. This scenario would provoke the question of whether the Commission should, or would, approve language from the General Assembly that it didn't recommend.

Sen. Tavares suggested that legal staff from the Senate Democratic caucus could do some research on this question.

Mr. Beckett described how the question came up in the joint meeting of the Public Education and Information Committee and Liaisons with Public Offices Committee. He said there was a perception that a failure of the 1970s Commission was that it stopped working once recommendations were sent to the legislature. Mr. Beckett suggested the Commission needs to proceed carefully to prevent his committee from doing something inappropriate with the public outreach portion of the mission, saying that having advice on this would be valuable.

Rep. Amstutz said there may be some possible value in amending the statute that created this Commission to allow the Commission to go forward with its mission. He said it is possible to do this so the issue is clear.

Rep. Curtin commented that while this is a worthy discussion, the Commission should proceed with care. He said the Commission should not endorse anything, as this would be electioneering and is not what state government organizations do. He said such institutions can put things on the ballot, but cannot electioneer, and cannot use public resources to do that. He said that doesn't prevent individual members from doing that, but this would be a departure for a government-sanctioned commission to endorse or electioneer. He said again the Commission needs to be very careful with this.

Rep. Amstutz agreed that this is a good point. The Commission should not contemplate a wide-open, undirected role, but hopefully there would be agreement that the Commission would not be advocating but would be educating. He also said there needs to be consensus that the Commission take on a particular role.

Rep. Curtin said the Commission needs to determine where the line is drawn between educating and advocating. He said education is okay, for example the secretary of state provides information on ballot issues, including arguments pro and con, and city councils do this too. However, Rep. Curtin said it is not permitted to use public resources to promote a "yes" vote. He said "that is the terrain we need to honor. We can put forth materials and educate but the word endorse takes us outside of those guardrails."

Ms. Trafford agreed it is important to look at this carefully. She cautioned that the Commission could find itself in a position where it disagrees with the General Assembly. At that point, the Commission could elect not to endorse, putting the Commission in a very awkward position with

the General Assembly and confusing the public. She said the Commission should be cautious about how to move forward because this would not affect just this one specific proposal but would be setting a precedent for future proposals.

Committee Membership Survey

Sen. Tavares said members will be receiving a survey on committee membership. This survey is being conducted to determine if anyone is interested in serving on other committees, and to allow the three new members to indicate their committee preferences.

Executive Director Report

Executive Director Steven Hollon said the preparation of reports and recommendations is going well in terms of format. He reported he has made presentations to outside groups about the Commission's work including the Newark Rotary Club and the Warren County Bar Association. He noted some of the lawyer members of the Commission will be on a discussion panel at the Ohio State Bar Association's annual meeting on May 1, 2015. Mr. Hollon also indicated that Communications Director Shaunte Russell is working on website redesign. He then introduced two Ohio State Moritz College of Law Interns, Hailey Akah and Stacia Rapp, who will be assisting staff this semester. Mr. Hollon concluded by saying he will be attending a budget presentation to the General Assembly, and will keep the Commission informed about this as it occurs. He noted the current budget of the Commission is \$600,000.00 per year.

Additional Comments/Discussion/Remarks

Professor Sapphire expressed appreciation to the Commission staff for their work. Co-Chair Tavares echoed that comment, saying the staff has done an outstanding job.

Adjournment:

With no further business, the Commission adjourned at 2:30 p.m.

Approval:

The minutes of the February 12, 2015 meeting of the Commission were approved at the April 9, 2015 meeting of the Commission.



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Sen. Charleta B. Tavares
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Co-Chair
Rep. Ron Amstutz
Speaker Pro Tempore