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Ohio Constitutional Modernization Colloquium

Background Materials from the Colloquium Planning Committee

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Executive Summary

The Colloquium Planning Committee was formed in response to the creation of the Ohio Constitutional Modernization Commission. The Committee is comprised of a diverse group of nineteen individuals concerned about the future of Ohio. Members of the Colloquium Planning Committee include former legislators, current and former state officials, retired judges, law professors, and individuals associated with the practicing bar. The Committee's goal is to provide an overview of process options that it has discussed and reviewed – most rooted in history and experience – that might assist the Modernization Commission.

This Executive Summary itemizes process options that the Committee thinks worthy of the Modernization Commission's consideration. After reviewing the history of constitutional revision commissions in Ohio and elsewhere, the Committee suggests three categories of process options that might assist the Commission in achieving its statutory objectives. The categories include internal processes, external processes, and Commission research and staffing.

Internal Process Options

Decision-Making Process Options

- Early educational opportunities to provide commissioners with background information on the history of the revision process and the Ohio Constitution.
- Aspirational and procedural ground rules that help provide direction for commissioners and help participants understand their roles and responsibilities.
- Facilitation training for the committee chairs within the Commission to assist with consensus building.
- Relationship and trust building activities that create bonds among commissioners and facilitate the viewpoint sharing process.

Organizational Process Options

- An internal code of conduct that serves as a guide for the conduct of commissioners and staff.
- Stakeholder meetings to identify and define substantive issues.
- Options for the structure and timing of committees.
- Phases of the process that provide structure for the Commission's work.

External Process Options

Online Tools that Inform the Public and Enhance Participation

- An official Commission website that provides updated information and news.
- An electronic monthly newsletter that informs the public about the Commission's activities and upcoming meetings.
- Interactive online components, such as "Choicebooks," online chat sessions, and "Virtual Tables" that enhance public participation by facilitating directed substantive and constructive public input.

Outside Resources that Support the Commission's Efforts

- Colleges, universities, and professional organizations that provide additional legal and scientific research.

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- Media strategies and public service announcements that reach a broad segment of Ohio.
 - A social media strategy that embraces new forms of electronic communication.

Final Commission Recommendations Made to the General Assembly

- Periodic in-person presentations of final Commission recommendations to the General Assembly that explain the rationale behind amendment recommendations.

Research and Staff Options

- A director with broad authority to manage the day-to-day affairs of the Commission and hire additional staff.
- Administrative assistant(s) to support Commission activities. Possibly a deputy director and additional staff employees, such as professional, technical, clerical, and research associates, depending on workload.
- Staff attorney(s) to engage in research and to coordinate research conducted by outside institutions.
- A public information officer to manage Commission communications, including establishing, maintaining, and managing an official website.
- Assistance from the Legislative Service Commission with research, drafting, and staff services.
- Part-time assistance from a financial officer.

The internal process options are presented as options that may assist the Commission's decision-making and organizational operations. The external process options are presented as options that may enhance the Commission's interactions with the public. The research and staff options are presented to emphasize the need for independent and capable individuals to support the Commission.

The Committee anticipates that the process options outlined above will promote openness, transparency, sound decision-making, and meaningful public involvement in the modernization of Ohio's Constitution. In addition, the Committee anticipates that the options will help the Commission in its statutory mission to:

- Study the Ohio Constitution;
- Promote an exchange of experiences and suggestions respecting desired changes in the Constitution;
- Consider the problems pertaining to amending the Constitution; and
- Make recommendations to the General Assembly for amendments to the Ohio Constitution.

Part I includes background information about the Colloquium Planning Committee. Part II discusses the Ohio Constitutional Revision Commission of the 1970s and the legislation establishing the Constitutional Modernization Commission. Part III includes historical information about state constitutional reform efforts across the nation. Part IV presents internal process options for the Commission's consideration. Part V presents process options relating to the Commission's external relations. Part VI presents research and staff options for the Commission. Finally, Part VII closes the report with some concluding remarks.

I. Colloquium Planning Committee Background

I. Colloquium Planning Committee Background

The Colloquium Planning Committee was formed in response to the creation of the Ohio Constitutional Modernization Commission. Faculty members of the Ohio State University Moritz College of Law's Election Law @ Moritz and Dispute Resolution Programs invited individuals with experience in Ohio government and constitutional law to join the Committee. The Committee is comprised of a diverse group of nineteen individuals concerned about the future of Ohio. Committee members include former legislators, current and former state officials, retired judges, law professors, and individuals associated with the practicing bar.

The Committee met both as a group and in subcommittees from November, 2011 through January, 2012 to discuss process options that might assist the Commission. A grant from the Joyce Foundation provided resources for attorney research fellows and law students from the Moritz College of Law, who assisted the Committee members by conducting research, interviewing members of the 1970s Ohio Constitutional Revision Commission, and facilitating Committee meetings.

The Committee's goal is to present helpful procedural options – most rooted in history and experience – that might assist the Modernization Commission. The Committee has not taken a position on substantive constitutional issues, nor has it taken a position on the constitutional convention ballot issue. Instead, the Constitutional Modernization Colloquium and this report present process options for the Modernization Commission's consideration.

The Colloquium is the culmination of the work of the Planning Committee and was made possible by the Joyce Foundation grant and support from the Election Law @ Moritz Program and the Program on Dispute Resolution at The Ohio State University Moritz College of Law.

II. Modern Constitutional Revision in Ohio

The 1970-1977 Ohio Constitutional Revision Commission succeeded in a number of ways.¹ The Commission developed sound procedures that facilitated decision-making and systematically informed and engaged the public on a range of constitutional issues. Because of these efforts, Ohio voters approved a majority of the Commission-recommended amendments proposed by the General Assembly. By incorporating processes that worked well in Ohio and in other states, and considering

¹ Steven H. Steinglass, Op-Ed., *Constitutional Commission is the Way to Go*, COLUMBUS DISPATCH, July 27, 2011.

new processes to take advantage of modern technology and research in public participation and group decision-making, the Modernization Commission may be able to develop sound processes that will allow it to achieve its statutory objectives and address the needs of Ohioans.

Part A of this section discusses some of the factors that played a role in Ohio's successful revision efforts in the 1970s. Part B of this section includes background information on the current Constitutional Modernization Commission.

A. Ohio's Successful Revision Efforts in the 1970s

The experience of the 1970-1977 Ohio Constitutional Revision Commission illustrates the impact that well thought-out processes can have on the success of a state constitutional revision commission. Voters rejected some of the Commission's early amendment proposals. However, the Revision Commission subsequently developed processes that facilitated decision-making, provided structure to its work, and engaged the public on constitutional issues. Each of these processes factored into the Commission's later ability to develop proposals that were approved by voters.

The 1970-1977 Ohio Revision Commission developed processes that facilitated decision-making, provided structure, and engaged the public.

The Revision Commission deliberated for more than a year before its structure and rules of procedure were adopted.² Below is a timeline of the first fifteen months of the 1970-1977 Ohio Constitutional Revision Commission.

- **January 1970:** The Commission held its first meeting and discussed the selection of the twenty citizen members of the Commission.
- **July 1970:** The Commission selected the twenty citizen members.
- **September 1970:** The Commission selected its director.
- **February 1971:** The Commission selected a steering committee of seven members for the purpose of recommending broad approaches to the work of the Commission, including its organization.
- **March 1971:** The Commission approved the committee structure proposed by the steering committee.
- **April 1971:** The Commission approved the rules of procedure proposed by the Organization and Administration committee.

² See Ohio Constitutional Revision Commission: Recommendations for Amendments to the Ohio Constitution, Final Report, *available at* https://www.law.csuohio.edu/sites/default/files/lawlibrary/ohioconlaw/ohio_const_revision_commn--history_of_commission_pp16-21.pdf (last accessed Jan. 5, 2012).

II. Modern Constitutional Revision in Ohio

The Revision Commission spent the majority of its time in 1970 seeking to “insure a nonpartisan approach by the Commission and to select the best possible director.”³ Once the Commission selected its nonlegislative members and adopted rules of procedure, it began soliciting public input and expert testimony on substantive issues and produced its first report to the General Assembly less than a year later in early 1972.

After several of its initial proposals were defeated by voters, the 1970-1977 Revision Commission developed a comprehensive strategy to inform itself of how best to communicate with Ohio voters. In 1973, voters rejected two of the three amendment recommendations proposed by the Commission. The defeat prompted one newspaper columnist to write, “You win a few: you lose a few. Unless you’re the Ohio Constitutional Revision Commission. Then you lose almost all the time.”⁴

The 1970-1977 Revision Commission began slowly, but eventually developed a comprehensive strategy to inform itself and Ohio voters.

In light of the loss at the polls, the Revision Commission appointed a subcommittee to investigate the matter and come up with suggestions for better communications with the public.⁵ The defeat of the amendment proposals caused the Secretary of State, Ted Brown, to publish the first voter’s guide explaining constitutional amendments appearing on the ballot. In conjunction with Secretary Brown, the Revision Commission proposed an amendment to address complaints by voters and lawmakers that many issues put before voters were difficult to read and understand.⁶ The recommendation, now Article XVI, Section 1 of the Ohio Constitution, provided for the preparation of ballot language on constitutional amendments and information for voters about amendment proposals. The General Assembly passed the recommendation without a dissenting vote and in May of 1974, 72% of the electorate approved the amendment.

In addition to making ballot language more accessible to voters, the Revision Commission purposely utilized additional processes to inform itself and engage the public.

- The commissioners participated in meetings that acquainted them with the problems of constitutional revision generally, with standards for the content and drafting of state constitutions, and with information on various substantive issues.
- The Commission engaged those outside of the revision process by holding meetings to provide the public with information on substantive issues and to solicit public input.

³ Ohio Revision Commission Report, vol. 1, at 8.

⁴ Tom Walton, “Constitutional Revision Commission Hopes Dim for November Success,” Toledo Blade, 3 (May 23, 1973).

⁵ *Id.*

⁶ Tom Walton, “Plain Language Sought For Ohio Ballot Issues, Amendment in May Primary Offers Plan to Uncomplicated Bills,” Toledo Blade, 3, (February 26, 1974).

- The Commission informed individuals within the government and private sectors by distributing letters explaining the organization and purposes of the Commission to all members of the General Assembly, the head of each state department/public agency, the Chief Justice of the Supreme Court, and professional and business organizations.
- The Commission informed the public by distributing a monthly newsletter that included information about the Commission's progress and explained the amendments that it had recommended to the General Assembly and that had been submitted to the voters.

The Revision Commission's efforts to inform itself and the public factored into the approval of an overwhelming majority of the Commission-recommended amendments proposed by the General Assembly. The greatest amount of legislative action on Commission proposals occurred during 1975-1976.⁷ By the time the Commission published its Final Report, voters approved thirteen of the Commission's sixteen amendment recommendations.⁸ The Revision Commission completed its review of the Ohio Constitution in 1977, three years prior to the end of the Revision Commission's ten-year statutory life.

B. The Ohio Constitutional Modernization Commission

The Ohio Constitutional Modernization Commission provides Ohio with "the vital opportunity to modernize the framework that governs [Ohio] and its citizens."⁹ By statute, the Modernization Commission has four general objectives:

- 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 to the General Assembly for the amendment of the Constitution.¹⁰

While all recommendations made by the Commission to the General Assembly require a two-thirds vote of the membership of the Commission,¹¹ the Ohio Revised Code leaves the Commission's rules and processes to the discretion of its members.

The members of the Commission are selected in a bipartisan manner. The Commission consists of thirty-two members: twelve legislative members and twenty nonlegislative members. The leaders of the House and Senate of the General Assembly select the twelve legislative members. On

⁷ See Revision Commission Final Report at 20.

⁸ *Id.*

⁹ Press Release, William G. Batchelder, Speaker of the House, Ohio House Passes Constitutional Modernization Bill (June 8, 2011).

¹⁰ See R.C. §103.61.

¹¹ *Id.*

II. Modern Constitutional Revision in Ohio

January 1 of every even-numbered year the legislative members meet, organize, elect two co-chairpersons from different political parties, and select the remaining twenty nonlegislative Commission members. Vacancies on the Commission are filled in the same manner as original appointments.¹²

Membership on the Commission does not constitute holding a public office.¹³ Public members are not required to submit financial reports as a result of their membership on the Commission. Members serve without compensation, but each member must be reimbursed for actual and necessary expenses incurred while engaging in the performance of official duties.¹⁴

The Commission may receive funds from the General Assembly and the general public, including appropriations, grants, gifts, bequests, and devises. The Commission may use its funds to reimburse members and for special research or studies relating to the Constitution of Ohio.¹⁵ The Commission is required to file a full report with the State Auditor by March 15th of each year that includes all grants, gifts, bequests, and devises received during the preceding year, and that includes the date the funds were received and the purpose for which the funds were expended.¹⁶

The Commission may employ professional, technical, and clerical employees.¹⁷ Funds for the compensation and reimbursement of employees must be paid from appropriated state treasury funds.¹⁸ The Commission's disbursements must be by voucher approved by one of the co-chairs of the Commission.¹⁹

Pursuant to the Article XVI, Section 3, of the Ohio Constitution, Ohio voters are asked every twenty years whether a constitutional convention should be called. The next opportunity to do so will be the November 2012 general election. If voters approve a call for a constitutional convention, the Modernization Commission must make recommendations to the General Assembly as to how to organize the convention, and report to the convention its recommendations on amending the Constitution.²⁰ If voters do not approve the convention call, the Commission must make its first report to the General Assembly by January 1, 2013, and submit an additional report every two years

¹² See R.C. §103.63.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ R.C. §103.64.

¹⁶ *Id.*

¹⁷ R.C. §103.65.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ R.C. §103.62.

II. Modern Constitutional Revision in Ohio

thereafter.²¹ The Commission is required to complete its work by July 1, 2021, at which time the Commission and the terms of all commissioners expire.²²

III. Constitutional Revision Across the Nation

The experiences of constitutional revision commissions across the states demonstrate that process matters. “Process” is simply a series of steps to arrive at a result.²³ In the context of constitutional revision, however, each of those steps is critical because each can determine the overall tone of the process and lay the groundwork for success.

History shows that process matters.

Part A in this section focuses on Florida’s Constitutional Revision Efforts in the late 1970s and 1990s. The Florida experience demonstrates how a process-oriented approach can affect the ultimate success of a constitutional revision commission. Part B focuses on the lessons from past constitutional commissions across the country. Historically, constitutional commissions are more successful when they develop processes that facilitate group decision-making, engage the public and stakeholders on constitutional issues, and inform voters about the history of the constitution and the benefits of change.

A. Florida’s Constitutional Revision Efforts in the 1970s and 1990s

Under the Florida Constitution, the state’s Revision Commission has the authority to submit amendment proposals directly to voters, but only one year to complete its work. Florida’s 1977-1978 Constitutional Revision Commission did not place a strong emphasis on its processes and Florida voters did not approve any of the Commission’s proposals. The 1997-1998 Florida Constitutional Revision Commission was more successful in its constitutional reform efforts than its predecessor twenty years earlier in large part because it learned from the past and developed processes that successfully engaged the public. As a result, voters approved the majority of the 1997-1998 Commission’s proposals.

According to two observers, 1977-1978 Florida Constitutional Revision Commission was unsuccessful in at least two respects: (1) its amendment proposals lacked bipartisan support; and (2)

²¹ R.C. §103.66.

²² R.C. §103.67.

²³ Wilkinson, Michael, *The Secrets of Facilitation: The S.M.A.R.T. Guide to Getting Results with Groups* (Jossey-Bass2004).

III. Constitutional Revision Across the Nation

the Commission did not effectively engage the public on constitutional issues.²⁴

The lack of bipartisan support for the Commission's amendment proposals may have been a product of its rules. One of the most time-consuming and controversial tasks of the 1977-1978 Florida Revision Commission was the development of rules of procedure. The Commission's rules were patterned on the rules of the 1967-1968 Florida Revision Commission and of the Florida Senate and Florida House of Representatives. The proposed rules initially contained a requirement that two-thirds of the Commission must approve before an amendment could be placed on the ballot; however, after debate, the super-majority rule was defeated, and amendment proposals required only a simple majority.²⁵ Because only a simple majority of Commission members was required to submit proposals to the electorate, there was a greater likelihood that proposals were not representative of all parties and interests.

The 1977-1978 Florida Commission lacked bipartisan support and did not effectively engage the public.

The 1977-1978 Florida Revision Commission did not place an emphasis on informing and engaging the public. Although the Commission held hearings across the state, the hearings alone were not sufficient to generate public support for amending the state's constitution. Florida voters did not approve a single amendment proposed by the Commission. The Commission's amendment proposals were ultimately under-publicized and overshadowed by other ballot measures.²⁶

Florida's success in the late 1990s is largely attributed to the emphasis it placed on improving process.²⁷ Prior to the creation of the 1997-1998 Florida Revision Commission, the Governor of Florida, with bipartisan support from the leadership of the Florida House of Representatives and the Florida Senate, created, by executive order, the Constitutional Revision Commission Steering Committee.²⁸ The Steering Committee was established for the purpose of developing a procedural and substantive framework that would permit the Commission to begin its work immediately.²⁹ The Steering Committee was charged with

The 1997-1998 Florida Commission learned from the mistakes of the previous Commission and developed processes to inform itself and the public.

²⁴ See Steven J. Uhlfelder and Billy Buzzett, *Constitution Revision Commission: A Retrospective and Prospective Sketch*, 71 Fla. B.J. 22, 24 (Apr. 1997).

²⁵ W. Dexter Douglass & Billy Buzzett, *Constitution Revision Commission: Planning the Process*, 71 Fla. B.J. 16, 18 (Apr. 1997).

²⁶ *Id.*

²⁷ W. Dexter Douglass, *The 1997-1998 Constitution Revision Commission: Valuable Lessons From A Successful Commission*, 52 Fla. L. Rev. 275 (2000).

²⁸ See Douglass & Buzzett at 16.

²⁹ *Id.*

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- Disseminating information to the public regarding the revision process;
- Proposing a budget for the Revision Commission;
- Developing issues for consideration by the Commission;
- Performing necessary research;
- Developing proposed rules of procedure;
- Developing a proposed committee structure for the Commission; and
- Gathering any other material that would facilitate the operation of the 1997-1998 Constitutional Revision Commission.³⁰

Because of the early emphasis placed on process, the 1997-1998 Florida Commission's decision-making capacity and relations with the general public were more wide-ranging than those of its predecessor. As a result, Florida voters were more informed and engaged in the revision process and ultimately approved eight of the Commission's nine proposals.

B. Lessons from Past Constitutional Commissions

The success or failure of constitutional revision commissions seems to rest on several factors. Scholars generally point to whether issues are controversial, the timing of elections, whether there is bipartisan political support for constitutional reforms, and whether political leaders and constitutional revision commissioners promote the passage of revisions.³¹ They suggest that constitutional commissions are more successful when:

- The public has adequate time to understand amendment proposals;
- All stakeholders are engaged in the decision-making process;
- Political leadership supports the revision efforts; and
- Voters are informed about the benefits of substantive constitutional changes and the history of the state constitution.

Constitutional reform efforts generally enjoy greater success when voters consider proposals during a special election.³² Controversial ballot issues unrelated to the work of a constitutional

Constitutional commissions are more successful when the public has time to consider proposals; all stakeholders are engaged; political leadership supports the proposals; and voters are informed about the history of the issues and the benefits of the changes.

The main advantage of a special election is that it enables voters to focus their full attention on the constitutional issues and recommendations of the commission.

³⁰ *Id.*

³¹ See John Dinan, *Accounting for Success and Failure of Southern State Constitutional Reform, 1978-2008*, 3 Charleston L. Rev. 483 (2008).

³² *Id.*

III. Constitutional Revision Across the Nation

revision commission can cause voters to reject a commission's amendment proposals. One factor contributing to the failure of the 1977-1978 Florida Commission was the appearance of controversial amendments unrelated to the Commission's work. A casino gambling amendment was on the same ballot as the Florida Commission's proposals and some believe that the aggressive opposition against the casino amendment caused voters to reject all of the amendments that appeared on the ballot.³³ Similarly, in Maryland, one of the most "serious mistakes" in the state's reform efforts in the 1960s was to hold the vote for considering the Commission's amendments at the same time as a primary election.³⁴ In Maryland, voters were suspicious of the amendment issues and expressed their disfavor (or confusion) by withholding their vote.³⁵ The main advantage of a special election is that it enables voters to focus their full attention on the constitutional issues and recommendations of the Commission.³⁶

Stakeholder engagement in the decision-making process seems to lead to amendment proposals that voters support. In 1980, Arkansas' reform efforts failed, according to the analysis by scholars of similar commissions, because stakeholders opposed amendment proposals that increased interest rates and property taxes, despite the fact that many anti-tax groups supported the amendment.³⁷ In Mississippi in the late 1980s, stakeholders opposed constitutional reform because they feared that revisions might have diluted existing constitutional rights.³⁸ Similarly, in Louisiana in 1992, stakeholders thwarted constitutional reform efforts because they viewed certain amendments as threats to education funding.³⁹ The failure to involve these stakeholder groups in the decision-making process led to organized opposition and the defeat of the amendment proposals, at least in the views of the scholars analyzing them. A problem-solving approach that builds consensus through group facilitation can incorporate various stakeholders into the decision-making process, thereby addressing stakeholder

Incorporating stakeholders into the decision-making process allows a commission to address concerns, reach widespread consensus, and avoid organized opposition from individuals that feel as if they have been locked out of the process.

³³ *Id.* at 499.

³⁴ Thomas G. Pullen, Jr., *Why the Proposed Maryland Constitution Was Not Approved*, 10 Wm. & Mary L. Rev. 378 (1968).

³⁵ Pullen at 378. Less than 15% of all registered voters voted for or against the convention call. Less than a third of voters voting in concurrent primary elections voted for or against the convention call.

³⁶ Dinan at 517.

³⁷ *Id.* at 495-96.

³⁸ *Id.* at 509.

³⁹ *Id.* at 506.

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concerns, reaching broad consensus, and avoiding organized opposition from individuals and groups that feel as if they have been locked out of the process.

Support from political leadership is also critical to the success of constitutional revision efforts. Scholars argue that Arkansas' 1980 reform efforts failed in part because political office holders were unable to devote their full attention to promoting the amendment proposals. Since 1980 was a general election year, many of the political leaders that supported constitutional change were preoccupied with their own reelection campaigns.⁴⁰ In Florida, one factor that may have contributed to the failure of the 1977-1978 Revision Commission was a lack of gubernatorial support and the Governor's open criticism of reform efforts.⁴¹ In contrast to Arkansas and Florida, Georgia in 1982 established a Legislative Overview Committee comprised of legislators to revise the Georgia Constitution. Both political parties and its leaders supported the Committee and its work. Voters in Georgia approved the new constitution by a three-to-one margin. The reasons cited for Georgia's success include: support from the leadership of all three branches of government; an organized public education strategy; and a lack of organized opposition.⁴² Ultimately, bipartisan support demonstrates that political leadership is united in the reform efforts.

Support from political leadership demonstrates that government officials are unified in the reform efforts.

Finally, informed voters are essential to the revision process. One scholar has argued that before voters can even begin to understand arguments about the advantages and disadvantages of particular constitutional reform proposals, they need to learn about the role, structure, and history of the state constitution.⁴³ Learning about the function of the state constitution provides the groundwork for overcoming political indifference and building active citizen support for constitutional reform.⁴⁴

A public education strategy that provides information about the role, structure, history, and benefits of change to the constitution lays the groundwork for overcoming political indifference and building active citizen support for constitutional reform.

The 1997-1998 Florida Revision Commission developed a comprehensive public education strategy before and after amendment proposals were generated. First, the Florida Commission provided information about the Commission and the revision process to the general public through its newsletters and website. The information available on the

⁴⁰ *Id.* at 495.

⁴¹ *Id.* at 497-99.

⁴² *Id.* at 503.

⁴³ *Id.* at 522.

⁴⁴ *Id.* at 522.

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Commission's website was provided by a nonprofit, nonpartisan public policy group. The public policy group provided a "Citizen's Guide to Proposing Changes," which included a brief history on earlier constitutions, articles of the Florida Constitution, the purpose of the Commission, background on the 1977-1978 Commission, potential substantive issues, how members of the public could become involved in the revision process (submitting proposals or attending public hearings), and suggested readings on Florida's Constitution.

Second, the 1997-1998 Florida Commission helped voters understand the rationale behind amendment proposals. One key to that effort was the production of a video explaining each proposal and giving an overview of the revision process. Scripted by the Commission's director of public information and bar services, the tape was mailed to all chief judges and clerks of court, along with a letter from the Chief Justice encouraging the courts to show the tape to jury pools and to otherwise make it available to citizens interacting with the courts. The tape was well-received, with a number of courts asking for additional copies. The video was also shared with public interest groups such as the League of Women Voters, television station public affairs directors throughout the state, and members and staff of the Florida Revision Commission.⁴⁵

IV. Internal Process Options for Ohio's Constitutional Modernization Commission

The first category of process options the Colloquium Planning Committee presents for the Commission's consideration concern the internal functioning of the Commission. The internal process options discussed below take into consideration the experiences of past state constitutional revision commissions and may be useful in helping the Commission to begin its work with a positive internal atmosphere. The options discussed may also facilitate decision-making by promoting consensus building, openness, and transparency. Part A of this section focuses on early process options that may facilitate decision-making. Part B focuses on organizational options that may be helpful to consider when planning the structure of the Modernization Commission.

A. Early Process Options that Facilitate Decision-Making

It may be effective for the Commission to approach its mission in a collaborative, problem-solving manner. The Modernization Commission is charged with studying the Ohio Constitution, promoting an exchange of experiences and suggestions respecting desired changes in the

⁴⁵ John F. Harkness, Jr., *The Florida Bar's Proper Role in the Constitution Revision Process*, 72 Fla. B.J., 10 (1998).

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Constitution, considering the problems pertaining to the amendment of the Constitution, and making recommendations to the General Assembly for the amendment of the Constitution.⁴⁶ In addition, each of the Commission’s recommendations must be supported by two-thirds of the Commission members.⁴⁷ Collaborative discussions to create proposals may increase the chances that they are supported by an overwhelming number of participants. A problem-solving approach focuses on establishing consensus by accounting for the concerns and interests that are common across party lines, stakeholder groups, and regions.

A problem-solving approach facilitates decision-making by creating a process whereby an issue is identified, defined, and then solved.

The problem-solving approach is a three-step process that includes problem identification, problem analysis, and discussion of possible solutions. Problem identification allows parties to exchange their experiences and suggestions regarding desired changes to the Constitution.

During problem analysis, parties examine what a potential solution should seek to solve. The final step is discussing alternative solutions and evaluating options based on their ability to meet the concerns and interests of participants. Appendix A includes a visual depiction of the problem-solving process in connection with the Commission’s statutory timeline.

Early approaches that might facilitate the problem-solving approach include (1) commissioner education; (2) aspirational and procedural ground rules; (3) facilitation training for committee chairs; and (4) relationship and trust building.

1. Commissioner Education

Information about the history of constitutional revision and the Ohio Constitution can help facilitate the Modernization Commission’s decision-making process.

Information about the history of revision and the Constitution can provide Ohio’s Commissioners with the context they need to begin their work.

In the 1970s, Ohio’s Revision Commissioners informed themselves by participating in symposiums on Ohio Constitutional Law and inviting experts to discuss substantive issues. The Commission held “information meetings for Commission members to acquaint them with the problems of

constitutional revision generally, standards for the content and drafting of state constitutions, and information on the various subjects undertaken for study by the Commission or its committees.”⁴⁸ The Commission held public meetings where speakers shared with the commissioners and the public

⁴⁶ See R.C. §103.61.

⁴⁷ *Id.*

⁴⁸ Ohio Constitutional Revision Commission. Recommendations for Amendments to the Ohio Constitution, Final Report, 17.

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their efforts in constitution-making in other states, a general overview of the Ohio Constitution, and an explanation of generally accepted standards for “good” state constitutions and a comparison of provisions in the Ohio Constitution with these standards.⁴⁹

The Commission also co-sponsored a symposium with the Ohio State University College of Law and the Ohio Municipal League, which focused on local government problems and emphasized their constitutional aspects.⁵⁰ The symposium presentations were cited throughout the Commission's recommendations relating to local government. The Revision Commission's report notes that the symposium aided the Local Government Committee's “focus on current problems” in local government. The seminar papers were published in the Ohio State Law Journal.⁵¹

In Florida, former revision commission members and experts on the Florida Constitution informed the 1997-1998 Revision Commissioners on the history of the revision process and the Florida Constitution. During the first meeting of the Florida Commission, the former chair of the 1977-1978 Revision Commission provided background on past commissions, summarized recent court decisions, and discussed the rights of Floridians and substantive issues.⁵² The Florida Commission also heard presentations from law professors, judges, and former state officials at subsequent Commission hearings and meetings.

Considering the past experiences of Ohio and Florida, the Modernization Commission may choose to speak with individuals who are knowledgeable in the area of constitutional revision and the Ohio Constitution. Constitutional law experts, such as law professors and judges, can provide background information on the purposes of constitutional revision, how revision has been conducted in the past, and the history of substantive issues. Ohio Constitutional Law experts may also be in the best position to inform commissioners about the structure, content, and history of the Ohio Constitution. Individuals with institutional memory, such as former revision commission members from Ohio and other states, might be able to speak with commissioners about their experiences, roles, and responsibilities in the revision process. Appendix

In the 1970s, Ohio commissioners met with constitutional law experts and participated in symposiums relating to substantive constitutional issues.

One of the first steps the Modernization Commission might take is to invite Ohio constitutional law experts and individuals with revision experience to discuss the nature and history of constitutional revision.

⁴⁹ *Id.* at 18.

⁵⁰ *Id.* at 19.

⁵¹ See Symposium: *Constitutional Aspects of Ohio Local Government*, 33 Ohio St. L.J. 572 (1972).

⁵² See Journal of the 1997-1998 Constitution Revision Commission, June 16, 1997, available at <http://www.law.fsu.edu/crc/pdf/crc1.pdf> (last accessed Dec. 5, 2011).

B includes a list of subject matter experts on Ohio Constitutional Law and resources on state constitutions and substantive issues. Listening to individuals with experience and knowledge in constitutional reform can provide Ohio's Modernization Commission with the historical context it needs to begin addressing substantive issues.

2. Aspirational and Procedural Ground Rules

Ground rules are generally used to ensure that all participants in a decision-making process understand their roles and responsibilities. There are two types of ground rules: aspirational and procedural. Aspirational ground rules can be used to create an atmosphere of trust and collaboration. Procedural ground rules generally cover process issues, such as the conduct of public meetings. The aspirational ground rules discussed below include establishing a general purpose of the modernization process and actively listening to the opinions and interests of other participants. The procedural ground rules discussed below include the conduct of public meetings, the joint fact-finding process, and guidelines for interacting with the media.

Ground rules can provide context and help build consensus by ensuring that all parties understand their roles and responsibilities.

a. Aspirational Ground Rules

An aspirational ground rule that establishes a general commitment to a basic principle, goal, or purpose can set a tone for commissioners during the revision process.

Aspirational ground rules reflect principles that every participant can agree to.

Early on during the 1970-1977 Ohio Constitutional Revision Commission, commissioners adopted several aspirational ground rules to help guide their decision-making process.⁵³ The aspirational ground rules from the 1970-1977 Ohio Revision Commission include:

- When speaking about revision outside of the Commission, a Commission member will only speak for himself or herself.
- Commissioners will not take a position, for or against, on constitutional issues and questions other than Commission recommendations.
- The Commission will avoid recommending changes solely for the purpose of improving language or arrangement unless the proposed changes serve the purposes of improving understanding, clarity, and logic of arrangement.
- The Commission will follow the principles of drafting contained

Ohio and other constitutional commissions have used aspirational ground rules to keep an open mind throughout the decision-making process.

⁵³ See Ohio Constitutional Revision Commission, Final Report, 19.

in the “Bill Drafting Manual” of the Ohio Legislative Service Commission.

In the late 1960s, Arkansas’ Revision Commission established aspirational ground rules to help direct its work. First, the chair of the Commission outlined three possible objectives of the Commission: propose changes, recommend a convention, or recommend no changes.⁵⁴ The Commission then established the following preliminary ground rules as “official policy”:

- (1) We should not make up our minds, either individually or as a commission, on which of the possibilities we will choose until we have had a reasonable time to study all of them and have made (a) a thorough preliminary study of the present Constitution with all its clauses and amendments, and (b) some further analysis of public opinion in regard to what the citizens of Arkansas want us to do....
- (2) We should let it be known that we want to receive, from every citizen of Arkansas, every idea that anyone has as to any desirable change, or nonchange, in any part of the Constitution....
- (3) We should plan to hold public hearings, both during this preliminary stage of our work and later, in different parts of the state, so that citizens will have an opportunity to express their views....
- (4) As our study proceeds we should prepare a list of all the questions that have been raised about any part or all of the present Constitution....
- (5) We should prepare a summary section by section, comparing the provisions of all recently adopted state constitutions, and some of the older ones as well, with the corresponding provisions of the Arkansas Constitution....⁵⁵

Arkansas’ preliminary ground rules promoted openness and transparency by clearly stating that commissioners would not make up their minds until the Commission had a reasonable time to study the Constitution and solicit public input. In addition, the rules established a structural framework to which commissioners could refer throughout the revision process.

An additional aspirational ground rule that the Modernization Commission might establish is to listen to the opinions and interests of all participants. Former Ohio Revision Commission member and former Minority Leader of the House John McDonald suggested that a ground rule for actively listening to opinions and ideas, such as recapping statements so that they are clarified, could avoid misunderstandings. Mr. McDonald noted that it is important that all participants listen to all sides and not reject ideas or opinions out of hand. Finally, he stressed that, because of the two-thirds voting requirement, considering multiple perspectives is critical to the success of the Modernization Commission.

⁵⁴ Walter H. Nunn, *The Commission Route to Constitutional Reform: The Arkansas Experience*, 22 Ark. L. Rev. 317, 324 (1969).

⁵⁵ Nunn at 325.

b. Procedural Ground Rules

Procedural ground rules can create a productive work environment while providing guidance for commissioners and public participants.

Procedural ground rules regarding the conduct of public meetings help provide structure, order, and ensure that all participants understand their roles and responsibilities.⁵⁶ Procedural ground rules covering meetings could explicitly explain: how face-to-face meetings are conducted; when and how participants can communicate; how conflicts are resolved; and how issues are presented for debate.⁵⁷ Procedural ground rules that facilitate direct, substantive, and constructive public input could help maximize the effectiveness of public meetings.

Procedural ground rules for joint fact-finding can help facilitate Commission meetings, build consensus, and avoid impasse. The Commission and its committees can use joint fact-finding as a tool to address conflicting policy positions and ensure that all participants are working from the same information and have the technical advice they need to engage in productive discussions.⁵⁸ During the constitutional modernization process, commissioners, members of the public, and stakeholders may have conflicting views on how to address substantive issues. Each group may present independent experts and objective evidence to support its position. To prevent frustration or the desire to abandon an issue because no right answer seems clear, joint fact-finding invites participants to work together to define the problem, to identify and select qualified resource persons to assist them, and then, in collaboration with the resource persons, to study the problem and review the results. Joint fact-finding provides equal access to information that all parties can agree is reliable, which moves them to the process of option generation and deliberation.

A final potential procedural ground rule covers commissioner interaction with the media. The media may be the only link to the Commission for most Ohioans. Thus, it is important that the Commission provide information through the media. Some ground rules the Commission might consider include where, when, and how the media is addressed and whether members characterize

Procedural ground rules can create a productive work environment while providing guidance for commissioners and public participants.

The Commission could establish a procedural ground rule for joint fact-finding, which ensures everyone is working from the same information.

⁵⁶ See Susskind, Lawrence and Merrick Hoben, *Making Regional Policy Dialogues Work: A Credo for Metro-Scale Consensus Building*, 22 Temp. Envtl. L. & Tech. J. 123, 132 (2004).

⁵⁷ *Id.*

⁵⁸ *Id.* at 133.

the views of other members. Such ground rules may encourage the free flow of information while serving as a guide for individual commissioners as they interact with the media.

3. Facilitation Training for Committee Chairs

Facilitation training may help committee chairs identify, analyze, and solve constitutional issues. Throughout the constitutional modernization process, committee chairs will need to meet with fellow commission members and the public to address constitutional issues and develop amendment proposals. Facilitation is a leadership skill that is well-suited for handling multi-party discussions and building consensus. Facilitation training provides individuals with the tools to more effectively handle both external and internal challenges and to engage participants in the decision-making process.

Facilitation is a meeting skill that can help the problem-solving process and maximize the effectiveness of group discussions.

The Chairman of the Ohio Constitutional Revision Commission in the 1970s, Richard Carter, used a facilitative approach to guide the Commission. Mr. Carter stated that his role as chairman was:

- To moderate – not advocate
- To recommend – not dictate
- To stimulate – not repress, and
- To facilitate – not dominate.⁵⁹

The chairman of the 1970-1977 Ohio Revision Commission used a facilitative approach.

Mr. Carter, a public member of the Revision Commission, remained the chairman from 1970-1977.

A consensus building approach can help build agreement through reasoned debate and information sharing.

To reach the two-thirds voting requirement for making recommendations to the General Assembly, the Modernization Commission will be required to consider multiple perspectives to develop recommendations that have broad support. A consensus building approach may be a useful tool to supplement traditional decision-making rules. While the Commission might use Robert's Rules of Order to formally adopt agreements, commissioners may also utilize consensus building to reach those agreements. Consensus building addresses concerns or interests to help build agreement across all parties and encourages reasoned debate and information sharing to reach agreements.

⁵⁹ Ohio Revision Commission, vol. 1, Feb. 18, 1971, at 8.

Facilitation and consensus building are effective decision-making processes for a group working together over a long period of time. Facilitation and consensus building are effective because they do not identify “losers” on particular points, thereby promoting better relationships and engaging more participants.⁶⁰ Accordingly, the Commission can consider the strongest concerns of stakeholders and reach a consensus supported by a vast majority of participants.

Facilitation training provides tools to address expectations about the process, the timing of results, and the ability to deliver a truly consensus-based result. For example, whereas traditional parliamentary rules use a moderator to limit debate, a facilitator listens to participants, reframes their interests, and asks them whether or not proposed options address their most important concerns. If a proposal does not address the concerns of a participant, the facilitator asks the participant to add to or augment the proposal. The process is repeated until an overwhelming agreement among the participants is reached.⁶¹ Most importantly, facilitation training develops appropriate processes that involve all of the relevant stakeholders in discussions that are engaging and promote mutual understanding and respect — a key to group decision-making.

Facilitation training can help develop processes that involve relevant stakeholders in discussions that are engaging and that promote mutual understanding and respect — a key to group decision-making.

Finally, because the legislative members of the Commission must re-select the public members every two years, facilitation may ease the transition of new members into the decision-making process. Appendix D shows that between two and three legislators left the 1970-1977 Revision Commission each year, while the turnover for public members was less frequent. Incoming commission members may have additional viewpoints and concerns; facilitation can account for additional concerns by engaging new participants in the decision-making process.

The Supreme Court of Ohio's Dispute Resolution Section, the Moritz College of Law's Program on Alternative Dispute Resolution, and other dispute resolution organizations in Ohio may be able to assist the Commission with facilitation training.

4. Relationship and Trust Building

The Modernization Commission's supermajority voting requirement may contribute to the creation of a collegial and non-partisan atmosphere. Dexter Douglass, Chairman of Florida's 1997-1998 Revision Commission, stated that Florida's supermajority rule insured that proposals garnered

⁶⁰ See Susskind, Lawrence and Merrick Hoben, *Making Regional Policy Dialogues Work: A Credo for Metro-Scale Consensus Building*, 22 Temp. Envtl. L. & Tech. J. 123, 135 (2004).

⁶¹ Straw polls may be used during the process to get a sense of how the group is progressing.

bipartisan support and that, as a result, deliberations were thorough and collegial.⁶² Yet, while the two-thirds supermajority rule necessarily requires Commission members to work together, it does not necessarily create long-term relationships or trust.

The Commission may consider participating in activities that focus on building bonds among commissioners. Informational retreats, such as the education opportunities and facilitation trainings identified above, are opportunities to build relationships and trust among commission members. In addition, informal gatherings, such as coffee or meals, could similarly help build relationships and trust. These activities bring individuals together and promote openness and viewpoint sharing. The ultimate goal of relationship and trust building activities is to assist commissioners with their work and their interactions with one another.

Relationships and trust are key to creating a productive and cooperative environment.

B. Internal Organizational Options

The statute authorizing the Ohio Constitutional Modernization Commission does not mandate a particular structure or provide specific guidance for the organization of the Commission. Instead, Revised Code Ch. 103 leaves the Commission's structure and organization to the discretion of its members. The suggestions below are intended to provide the Modernization Commission with guidance and structure. The suggestions cover the (1) adoption of an internal code of conduct, (2) solicitation of public input, (3) timing and structure of committees, and (4) phases of the constitutional modernization process.

1. Internal Code of Conduct

An appointment to the Ohio Constitutional Modernization Commission does not constitute holding a public office.⁶³ As a result, the public members of the Commission are not subject to Ohio's Ethics Laws and financial disclosure requirements. While not statutorily required, a Code of Conduct can be a helpful guide for the conduct of all commissioners and staff.

a. Ethical Standards Applicable to Legislative Commissioners

Ohio's Ethics Law governs public officials, public employees, and certain individuals in the private sector.⁶⁴ For the most part, it is not applicable to members of the Modernization Commission

⁶² W. Dexter Douglass, *The 1997-1998 Constitution Revision Commission: Valuable Lessons From A Successful Commission*, 52 Fla. L. Rev. 275, 278-279 (2000).

⁶³ R.C. §103.63.

⁶⁴ See R.C. § 102.

IV. Internal Process Options for Ohio's Constitutional Modernization Commission

because the Commission is not a formal decision-making body; its official role is to provide recommendations. This section reviews the ethical requirements applicable to legislative members and consultants of the Commission. The Commission may choose to incorporate some of the principles within Ohio's Ethics Law.

Ohio's Ethics Law promotes the general public interest and public confidence by prohibiting biased public expenditures and decision-making conflicts of interest in public officials.⁶⁵ The Office of the Legislative Inspector General oversees lobbying compliance relative to attempts to influence legislation.⁶⁶ The laws applicable to legislative lobbying apply to individuals who receive compensation in return for direct communication with a member of the General Assembly, the Governor, the Director of a state agency, or the staff of any of these public officials.⁶⁷

The Joint Legislative Ethics Committee serves as the ethics advisory committee for Ohio's legislative branch of government.⁶⁸ The Joint Legislative Ethics Code governs the behavior and conduct of members and employees of the General Assembly.

The Ohio Ethics Commission oversees compliance with Ohio's Ethics Law, which also covers required annual Financial Disclosure of officials and public employees under its jurisdiction.⁶⁹ The Commission has jurisdiction over all public officials and employees at the state and local levels of government, except legislators, judges, and their staffs.

According to the Ohio Ethics Commission, certain employees of the Modernization Commission may be subject to Ohio's Ethics Law. In 1975, the Ethics Commission issued an advisory opinion relating to the 1970-1977 Revision Commission.⁷⁰ The advisory opinion request asked whether R.C. 102.04(A) applied to members of the Revision Commission and its legal consultants. With respect to state commissions, R.C. 102.04(A) generally prohibits elected or appointed state officials and employees of a commission from receiving compensation from an

⁶⁵ See Ohio Ethics Commission, General Information Fact Sheet, *available at* http://www.ethics.ohio.gov/EducationandPublicInfo_General_Info.html (last accessed Dec. 7, 2011).

⁶⁶ See The Office of the Legislative Inspector General, *available at* <http://www.jlec-olig.state.oh.us/> (last accessed Dec. 7, 2011).

⁶⁷ See Joint Legislative Ethics Committee 2009-2010 Lobbying Handbook, 3-4, *available at* <http://www.jlec-olig.state.oh.us/PDFs/2009%20Handbook%20final.pdf> (last accessed Dec. 7, 2011). See also R.C. §§101.70-101.79

⁶⁸ See The 129th General Assembly HCR 14, Joint Legislative Code of Ethics, *available at* http://www.legislature.state.oh.us/ResolutionText129/129_HCR_14_AS_Y.pdf (last accessed Dec. 7, 2011).

⁶⁹ See Ohio Ethics Commission, About the Commission, *available at* <http://www.ethics.ohio.gov/About.html> (last accessed Dec. 7, 2011).

⁷⁰ See Ohio Ethics Commission Advisory Opinion No. 75-012, July 1, 1975, *available at* <http://www.ethics.ohio.gov/opinions/75-012.html> (last accessed Dec. 7, 2011).

outside source. The Ethics Commission provided that R.C. 102.04(A) did not apply to members of the Revision Commission because it served only to study, promote, consider, and make constitutional recommendations.⁷¹ However, R.C. 102.04(A) might apply to consultants if they are considered to be employees.⁷² Section 102.04(A) does not cover independent contractors.⁷³ After reviewing a contract for consultant services provided by the Revision Commission, the Ethics Commission determined that the Commission’s legal consultants were independent contractors and that R.C. 102.04(A) did not apply.⁷⁴

b. General Principles for a Code of Conduct

Many state commissions have adopted standards of conduct that are applicable to all individuals involved in the decision-making process.⁷⁵ Even though it is not statutorily obligated to adopt a code of conduct, the Modernization Commission might choose to create a code of conduct to guide its commissioners and employees and to address issues before conflicts arise. A code of conduct might include:

- The purpose of the code and the general obligation to follow the code;
- What conduct is expected from commissioners and staff;
- The general duty to avoid conflicts of interest;
- Procedures for recusal; and
- Obligations to maintain confidentiality when appropriate, especially when interacting with legal counsel.

A code of conduct can raise public confidence and help commissioners avoid conflicts of interest.

The creation and adoption of an internal code of conduct might help commissioners avoid conflicts of interest and the appearance of impropriety. In addition, a code of conduct might raise public confidence in the Modernization Commission and its recommendations.

⁷¹ *Id.* at 2.

⁷² *Id.* at 3.

⁷³ *Id.* at 3-4.

⁷⁴ *Id.* at 5-6.

⁷⁵ Most recently, the Ohio Casino Control Commission adopted a Code of Conduct that is applicable to its commissioners and staff.

2. Stakeholder Input

The experience of the 1977-1978 Florida Constitutional Revision Commission demonstrates that public hearings alone are insufficient. The Modernization Commission may need to proactively interview stakeholders⁷⁶ and collect information from them to better understand substantive issues.

Meeting with stakeholder groups can build a collective understanding of and commitment to proposals, which can enhance productivity by creating consensus.⁷⁷ Stakeholders, such as the practicing bar, members of government, and community groups, are more likely to understand the nature and extent of substantive issues and what a potential solution to a constitutional issue might look like. An early information-gathering phase that involves stakeholder groups could help the Commission engage stakeholders, identify substantive issues, and establish support for the Commission's recommendations.

Listening to opinions can also help the Commission identify areas of agreement. Interest mapping is the process of identifying stakeholders and listening to their interests in order to evaluate their concerns and needs.⁷⁷ Interest mapping prioritizes stakeholder interests and helps identify areas of consensus. Once interests are identified and mapped, the Commission can begin the consensus building process by using the areas of agreement as a starting point for discussions.

Soliciting input from stakeholders engages those outside of the Commission in the decision-making process and can generate widespread support for the Commission's proposals.

An early information-gathering phase that involves stakeholder groups could help the Commission engage stakeholders, identify substantive issues, and establish support for the Commission's recommendations.

3. Structure and Timing of Committees

Constitutional revision commission committees typically cover three general categories: commission operations (internal and external); broad areas of the constitution; and specific constitutional issues. The model most often used by revision commissions structures committees according to articles of the constitution and areas of government. An alternative model structures committees around substantive issues that the commission identifies through expert opinions, public meetings, and discussions with stakeholder groups.

⁷⁶ A stakeholder is an individual with an interest or concern in an outcome. Within the context of constitutional reform, a stakeholder includes any individual or group affected by constitutional change.

⁷⁷ Wilkinson, Michael, *The Secrets of Facilitation: The S.M.A.R.T. Guide to Getting Results with Groups*. Jossey-Bass: San Francisco (2004).

⁷⁷ See Jim Arthur, Christine Carlson, *A Practical Guide to Consensus*, Policy Consensus

After committees are established, the Commission might consider how commissioners and staff are assigned to committees. For example, in Arkansas in the late 1960s, the chairman of the Commission nominated committee chairs. General committee assignments were based on expressions of preference and personal background of the individual commissioners.⁷⁸ Assigning commission members and staff to committees based on personal preferences and experience could enhance productivity as long as these do not relate to earlier-expressed entrenched positions by these members.

Committees generally cover internal and external commission operations, broad substantive issues, and specific substantive issues.

a. Committees Structured by Sections of the Constitution or Parts of Government

Under the model most often used by constitutional commissions, committees are established before input is solicited and research is conducted. The model structures committees around a combination of areas of law, such as taxation and education, and articles of the constitution, such as the judiciary and the legislature. Subcommittees are then established to address procedural and administrative issues, such as rules of procedure and public relations. Subcommittees might be further divided into “special” or “select” committees that address difficult substantive issues. One advantage of this model is that it is easy to identify the necessary committees and divide responsibilities.

One committee model identifies committees immediately based on articles of the constitution or areas of law and government.

The 1970-1977 Ohio Revision Commission used this model to some degree, although some committees focused on specific substantive issues.

Ohio 1970-1977 Constitutional Revision Commission Committee Structure

Standing Committees

- Liaison with Government and Public Officers
- Organization and Administration
- Public Information
- Subject Matter

Subject-Matter Subcommittees

- | | |
|-------------------------------------|-------------------------|
| • Education and Bill of Rights | • Judiciary |
| • Elections and Suffrage | • Legislative/Executive |
| • Finance and Taxation | • Local Government |
| • Grand Jury and Civil Trial Juries | • What’s Left? |

⁷⁸ Nunn at 325.

IV. Internal Process Options for Ohio's Constitutional Modernization Commission

The 1970-1977 Ohio Constitutional Revision Commission began its study of the Ohio Constitution by considering broad issues. The Subject Matter standing committee recommended that the Commission be divided into four subcommittees to begin studying the legislature, the executive branch, local government, and finance and taxation. The Subject Matter Committee then indicated to each subcommittee the particular portions of the Constitution that fell within the scope of the specific subcommittee.

Florida also used a mixed committee model in 1997-1998. Florida's standing committees were assembled into two groups designated by the colors red and blue. The purpose of the grouping was to avoid scheduling conflicts between the meetings. The subcommittees addressed procedural and administrative issues in addition to special substantive issues.

Florida 1997-1998 Constitutional Revision Commission Committee Structure

Standing Committees

Red Group

- Finance & Taxation
- Bonding & Investments
- Executive
- Judicial
- Declaration of Rights

Blue Group

- Education
- Legislature
- General Provisions
- Ethics & Elections
- Local Government

Subcommittees

- Rules and Administration Committee
- Style and Drafting Committee
- Select Committee on Article V (Judiciary) Costs
- Select Committee on Initiatives
- Select Committee on Sovereign Immunity
- Select Committee for Public Education

Florida used an objective voting system to set its agenda. The 1997-1998 Florida Commission winnowed down the various proposals made by commissioners and citizens at public hearings by reducing each submission to a formal proposal and then voting on whether the proposal would receive additional consideration.⁷⁹ If a proposal received at least ten votes (out of thirty-seven), it was referred to a committee. If the proposal did not receive ten votes, then it was no longer considered. During the process, many proposals were combined and amended. If a proposal received ten votes, it was sent to the Commission's secretary who assigned a number to the proposal and referred it to the appropriate committee. A committee then had three Commission meeting days in which to report on the proposal. An extension of five days was possible, but if the committee did

⁷⁹ W. Dexter Douglass, *The 1997-98 Constitution Revision Commission: Valuable Lessons from a Successful Commission*, 52 Fla. L. Rev. 275, 280 (2000).

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not report, then it was automatically referred to the whole Commission without a recommendation from the committee. Proposals were organized and reviewed in the order they were found in the constitution. Proposals needed twenty-two votes (a supermajority) to be submitted to the voters.

An essential element of Florida's committee structure was that each committee was required to report each proposal to the full Commission with a favorable, unfavorable, or no recommendation. This made it impossible for a committee to "bury" a proposal. In addition, the open committee structure alleviated concerns that one faction of the Commission could seize control and set an agenda.⁸⁰

Florida's Commission also established "select committees" to reach agreements on amendment proposals. Florida's select committees were comprised of a limited group of commissioners that reviewed substantive issues where various solutions to an issue were proposed but no answer seemed clear. The select committees reached consensus on issues that were difficult to create agreement on in the past, either for political reasons or otherwise.⁸¹

b. Committees Structured by Substantive Issues

An alternative committee model structures committees by substantive issues identified through public input and research. For example, in 1993, New York's Temporary Revision Commission created "Action Panels" to address state issues that it specifically identified through research, such as fiscal practices, elementary and secondary education, the criminal justice system, and relations between state and local governments.⁸² One advantage of the issue-oriented approach might be its consistency with the problem-solving model.

Ohio used an issue-oriented committee structure during the Constitutional Convention of 1912.

Ohio 1912 Constitutional Convention Committee Structure

- | | |
|--|--|
| • Agriculture | • Legislative and Executive Departments |
| • Arrangement and Phraseology | • Liquor Traffic |
| • Banks and Banking | • Method of Amending the Constitution |
| • Claims Against the Convention | • Miscellaneous Subjects |
| • Corporations Other than Municipalities | • Municipal Government |
| • County and Township Organization | • Printing and Publications of Proceedings |
| • Education | • Public Works |
| • Employees | • Rules |
| • Equal Suffrage and Elective Franchise | • Schedule |

⁸⁰ Douglass at 279.

⁸¹ See Douglass at 281-82.

⁸² See Robert N. Wells, Jr., *New York State Government and Politics in a Nutshell: A Citizen's Primer*, 7, available at <http://www.stlawu.edu/wells/combined.pdf> (last accessed Dec. 6, 2011).

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- Good Roads
- Initiative and Referendum
- Judiciary and Bill of Rights
- Labor
- Short Ballot
- Submission and Address to the People
- Taxation

The issue-oriented structure allows a commission and its committees to address issues that cut across various areas of law and government. For example, economic development is a substantive issue that the Commission might address. Economic development potentially falls under several areas of law and government including finance, taxation, and local government. Therefore, a separate committee on economic development would be appropriate. A variation of the issue-oriented model considers matters dealing with government and government processes first, such as elections and state and local government relationships, and then proceeds with substantive constitutional issues identified through public input.

An alternative committee model structures committees by substantive issues identified through public input and research.

If the Commission chooses to create a committee structure based on specific issues then it may need to solicit input before the committees are established. For example, as an initial matter, the Commission might create standing committees that cover internal and external Commission operations. The standing committees might include staffing, research, rules, media communications, public relations, and so forth. Then, after the Commission hears input from experts and the public, it could create substantive committees based on the various issues identified.

4. Phases of the Commission Process

The Modernization Commission can utilize work phases to help direct its work and meet its mandated benchmarks. The Revised Code mandates three benchmarks for the Commission. First, the Commission must make an initial report to the General Assembly before January 1, 2013. Second, the Commission must make additional reports at least every two years thereafter. Third, the Commission must complete its work on or before July 1, 2021.

The Modernization Commission can utilize work phases to help direct its work and meet its mandated benchmarks.

To meet these benchmarks, the Modernization Commission might choose to create a procedural framework that guides each phase of the decision-making process. A procedural framework may include phases covering information gathering, information analysis, idea generation, drafting, and reporting to the General Assembly.

IV. Internal Process Options for Ohio's Constitutional Modernization Commission

The following chart might serve as a helpful visual depiction of potential phases and their respective processes during the constitutional modernization Process.

Phase	Processes
Phase 1 – Gather Information	<ul style="list-style-type: none">▪ Learn about the history of the Ohio Constitution and constitutional revision by speaking with Ohio Constitutional Law experts and individuals that have worked on past revision commissions.▪ Participate in facilitation training to develop consensus-building tools.▪ Solicit public input online and through public meetings/hearings to identify issues.▪ Meet with stakeholders to identify issues.
Phase 2 – Analyze Information	<ul style="list-style-type: none">▪ Engage in joint fact-finding to identify constitutional issues.
Phase 3 – Generate Ideas	<ul style="list-style-type: none">▪ Engage in consensus building to craft proposals that meet the concerns and interests of participants.▪ Solicit public comment on proposals.
Phase 4 – Draft Proposals	<ul style="list-style-type: none">▪ Draft ballot language or general recommendations that are supported by an overwhelming consensus.▪ Allow law students or legal counsel to examine proposals for their legal sufficiency.
Phase 5 – Report to General Assembly	<ul style="list-style-type: none">▪ Present proposals and provide testimony as to why the proposal should be adopted.

The five phases above follow the problem-solving approach and provide a general model for the decision-making process. The phases may be repeated each time an issue is identified and/or each time the Commission makes a report to the General Assembly. The Commission might also consider a sixth phase to inform the public about the rationale behind proposals.

At times the Commission may be faced with certain hot-button issues or pressure to address specific substantive topics. To remain credible in the eyes of the public, the Commission could use the work phases to develop internal processes that allow it to address multiple issues at a time so that no single issue takes priority over another.

V. External Process Options For the Constitutional Modernization Commission

The second category of process options the Colloquium Planning Committee presents to the Commission concerns the Commission's relations with the voting public. The experiences of revision commissions across the nation suggest that an informed and engaged public contributes to the success of constitutional reform efforts. Part A of this section addresses the use of technology to inform the public about the commission

The experiences of past commissions suggest that keeping the public informed and engaged contributes to the success of constitutional reform.

process and to enhance public participation, including a detailed discussion of website development and online tools to engage the public. Part B discusses options for utilizing outside resources to inform and engage the public. Part C discusses the option of regional committee meetings throughout Ohio. Part D discusses options for presenting final recommendations to the General Assembly.

A. Online Tools that Inform the Public about the Revision Process and Enhance Public Participation

This section discusses process options for informing the public and encouraging public participation. The options discussed below include (1) an official Commission website and (2) online participation tools to engage the public. Before adopting an online tool, the Modernization Commission would need to carefully evaluate the costs and benefits of doing so.

1. Official Commission Website

In the information age, an official website has the potential to contribute significantly to awareness of the Commission's work by voters, educators, stakeholder groups, and members of the press. Over a decade ago, the 1997-1998 Florida Revision Commission used an official website to inform the public and encourage public participation. The Florida Commission's website provided information about the Commission's work and solicited proposals from the public. The Florida State University College of Law hosted the website, which included the following information:⁸³

An official Commission website could provide Ohioans with easy access to information about the Commission, its work, and the Ohio Constitution.

- A copy of the state constitution;
- General information about the revision process;
- Transcripts and journals of the Commission's hearings and sessions;
- Agendas for Commission sessions;
- Summaries of proposals and staff analyses of proposals;
- A documentary history of the Florida Constitution;
- Summaries of the nine final revisions in English and Spanish; and
- Biographical and contact information for each Commission member.

⁸³ The website is maintained by the Florida State University College of Law and is available at <http://law.fsu.edu/crc/>.

The website also included a “Kids Page,” a section that helped elementary and high school teachers integrate the constitution revision process into their lesson plans.⁸⁴ According to Dexter Douglass, Chairman of the 1997-1998 Florida Revision Commission, the website “allowed citizens the access necessary to familiarize themselves with the Commission’s complex work, which proved critical as the vote on the proposed revisions drew near.”⁸⁵

Today’s technological advances provide the Modernization Commission with the option to design a website that is both informative and interactive and that streamlines the Commission’s work. An official website could provide Ohioans with information about the Ohio Constitution and the modernization process. The website could keep the public informed of meeting and hearing dates, and provide access to minutes and transcripts from past meetings and hearings. A website could also serve as a mechanism for submitting public input. Commission staff could review, summarize, and distribute public submissions to the appropriate committees for review.

If the Commission chooses to provide transcripts, current voice recognition technology can reduce the cost of transcription. Speech recognition software, such as “Dragon,” can convert speech to digital text by simply re-speaking an audio recording into a microphone.⁸⁶ The Commission could provide transcripts of every Commission and committee meeting through its website at a low cost.

The Commission might also choose to stream audio and video of its hearings and sessions on its website. To facilitate this option, the Commission could partner with The Ohio Channel to stream audio and video over the Channel’s website.⁸⁷ The Ohio Channel is provided by Ohio’s Public Broadcasting Stations. The Channel’s networking and hosting services are provided by e-Tech Ohio, a state agency dedicated to enhancing learning by developing programs and using best practices to serve learning organizations while acquiring, integrating and sustaining educational technology.⁸⁸ Some individuals may have difficulty reading web pages and others might simply prefer listening or watching rather than

The Commission may choose to partner with the Ohio Channel to stream video and audio over the Internet.

⁸⁴ See *CRC Introduces Kids Page*, Fla. Const. Revision Commission, Newsletter (Fla. Const. Revision Commission, Tallahassee, Fla.) September 1, 1997; available at <http://law.fsu.edu/crc/news/september97.pdf> (last accessed Dec. 9, 2011).

⁸⁵ W. Dexter Douglass, *The 1997-1998 Constitution Revision Commission: Valuable Lessons from A Successful Commission*, 52 Fla. L. Rev. 275, 279-80 (2000).

⁸⁶ See *Dragon Transcription Solutions*, Nuance Communications, Inc. (Dec. 10, 2011) <http://www.nuance.com/dragon/transcription-solutions/index.htm>. The accuracy rate of the software is 99%. There are currently no programs with a similar accuracy rate that converts the audio recordings of multiple speakers to text.

⁸⁷ See *Ohio’s Public Broadcasting Station*, The Ohio Channel (Dec. 10, 2011) www.ohiochannel.org/.

⁸⁸ See *Welcome to eTech Ohio*, Ohio.gov (Dec. 10, 2011) <http://www.etech.ohio.gov/>.

reading, so providing information in multiple formats increases accessibility to information. This option would provide individuals with the opportunity to view the Commission's work in its entirety.

The remainder of this section discusses website features utilized by other organizations and government entities. The specific features discussed here cover: (a) accessibility to information; (b) information about the Commission's purpose and process; and (c) news and updates.

a. Accessibility of Information

Information on a website is generally considered accessible when it is easy to find, read, and understand. Three website features that can enhance the accessibility of information are the website's layout, the use of plain language, and multimedia features.

Understanding how an individual views a website and what information is the most meaningful to the user are essential components to creating an accessible website.⁸⁹ The Commission and/or its staff might consider how much information the user needs and the level of detail with which the information should be presented. People often scan web pages for the information they want and tend not to read word for word.⁹⁰ Unnecessary "white space" tends to disrupt this type of scanning.⁹¹ Since users typically do not read large amounts of text online, the Commission might consider providing short sections on essential Commission information, or downloadable pages that enable a reader to download and print information.⁹²

Understanding how an individual views a website and what information is the most meaningful to the user are essential components to creating an accessible website.

The amount of information on a website can influence its structure and navigation. Websites with a significant amount of information typically offer a search function.⁹³ A search function is useful when a user is not sure where to find information on a certain topic. Websites tend to be easier to navigate when there are links to text with short explanations of what information will be

⁸⁹ Nigel Bevan, *ExperienceLab: Usability Issues in Website Design*, 3 (Nov. 1999) <http://experiencelab.typepad.com/files/usability-issues-in-website-design-1.pdf> (last accessed Jan. 7, 2012).

⁹⁰ Bevan, at 4 (citing Jakob Nielsen, *How Users Read on the Web* (Oct. 1997)). <http://www.useit.com/alertbox/9710a.html> (last accessed Jan. 7, 2012).

⁹¹ Id. citing Spool, J.M., et al. *Website Usability: A Designer's Guide* (User Interface Engineering 1997).

⁹² Bevan at 4.

⁹³ Bevan at 4.

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found on those pages.⁹⁴ The explanation of what each link contains facilitates the finding of information the user wants.⁹⁵ The links could be divided into related and titled groups.⁹⁶

Plain language helps website users “find what they need, understand what they find, and use what they find to meet their needs.”⁹⁷ Experts recommend using terminology that is familiar to the user.⁹⁸ The federal government’s website that focuses on ways to improve communication to the public suggests avoiding “jargon and legalese, hidden verbs, passive voice, long sentences or paragraphs, abbreviations, unnecessary words, and information the user doesn’t want.”⁹⁹

The screenshot below is from the Federal Environmental Protection Agency’s website.¹⁰⁰ It contains many of the features discussed in this section.



⁹⁴ Id. (citing John Morkes and Jakob Nielsen, *Concise, SCANNABLE, and Objective: How to Write for the Web* (1997)) <http://www.useit.com/papers/webwriting/writing.html> (last accessed Jan. 7, 2012).

⁹⁵ Id. at 5.

⁹⁶ Bevan. at 5 (citing Jakob Nielsen. “How Users Read on the Web,” (Oct. 1997)). <http://www.useit.com/alertbox/9710a.html> (last accessed Jan. 7, 2012).

⁹⁷ <http://www.plainlanguage.gov/whatisPL/index.cfm>, (last accessed Jan. 7, 2012). This federal government website lists techniques that can assist in writing in plain English.

⁹⁸ Bevan at 5.

⁹⁹ <http://www.plainlanguage.gov/howto/guidelines/FederalPLGuidelines/webTechniques.cfm> (last accessed Jan. 7, 2012).

¹⁰⁰ <http://water.epa.gov/lawsregs/rulesregs/sdwa/regulationsunderdevelopment.cfm> (last accessed Jan. 7, 2012).

- **Structure and Content:** The information provided is based on what the agency’s target audience would want to know. The webpage has bold headings and little “white space.”
- **Navigation:** On the left side of the screen and across the top of the screen links and tabs indicate the information accessible by clicking. The website designers grouped the links in a logical manner and added a search box on the top right of the screen.
- **Plain Language:** The web page explains the meaning of the regulations in plain language.
- **Process:** The web page’s first paragraph outlines how the public can participate in the rulemaking process.
- **Current Issues:** The second paragraph explains the current rule proposals.

The EPA website effectively structures its content in an easily navigable fashion and utilizes plain language to improve readability.

b. Information about the Commission’s Purpose and Process

A website can effectively disseminate information about the Modernization Commission’s structure, goals, and processes. The Commission’s official website could display information on the Commission’s organization, such as its members and committees, the aspirational and substantive goals of the Commission, and an overview of the type of issues each Committee reviews.

A website can effectively disseminate procedural and substantive information to the public.

The website could post meeting dates for the Commission and its committees, the agenda for those meetings, and summaries from past meetings. For example, Ohio’s Department of Education website provides this type of information in an easy to read calendar-like chart along with links to documents.¹⁰¹

¹⁰¹<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=576&ContentID=117915> (last accessed Jan. 7, 2012).

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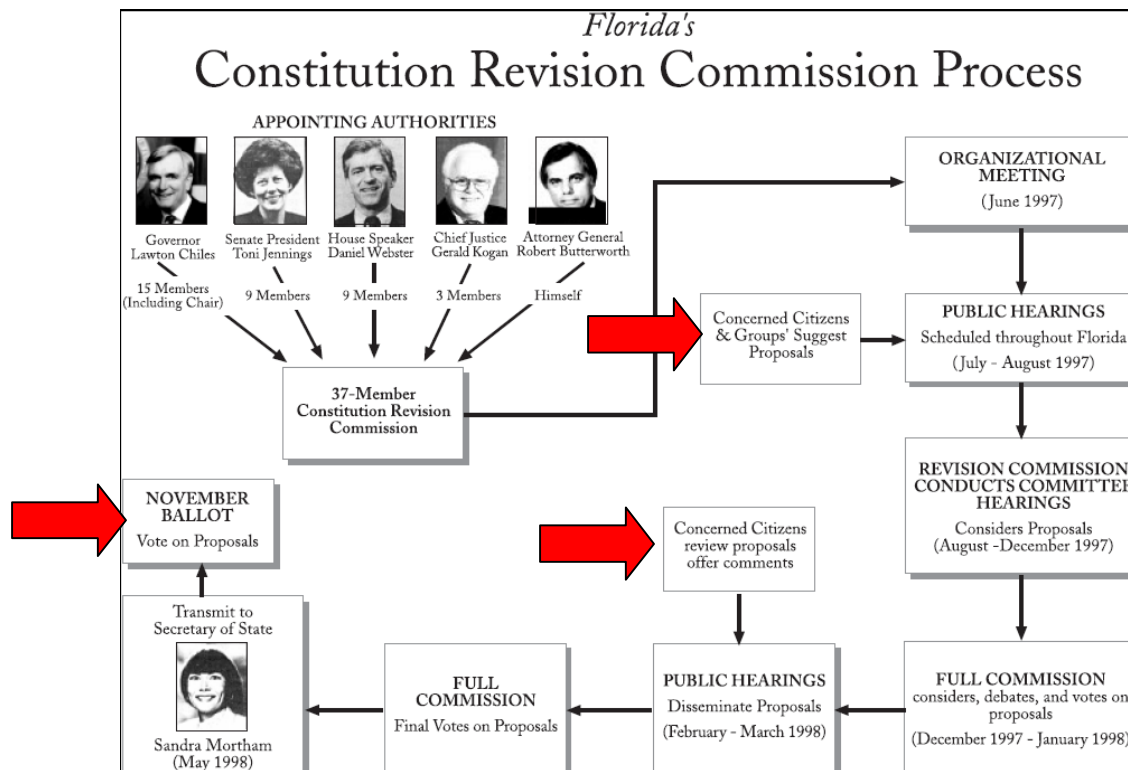
The screenshot shows the Ohio Department of Education State Board of Education website. The header includes the site name and a 'Printer Friendly' link. A left sidebar contains navigation links: 'About the State Board of Education', 'State Board Home', 'State Board Meetings' (highlighted), 'State Board Reports and Policies', and 'Vision of the State Board'. The main content area is titled 'State Board Meetings for 2012'. It contains introductory text about the meeting schedule and public participation, followed by a table of meeting dates and links to agendas, minutes, schedules, audio files, and board books for each month.

January 9-10 Voting Agenda Minutes Time Schedule Audio Files Board Books	May 14-15 Voting Agenda Minutes Time Schedule Audio Files Board Books	September Voting Agenda Minutes Time Schedule Audio Files Board Books
February 13-14 Voting Agenda Minutes Time Schedule Audio Files Board Books	June 10-12 Voting Agenda Minutes Time Schedule Audio Files Board Books	October Voting Agenda Minutes Time Schedule Audio Files Board Books
March 12-13 Voting Agenda Minutes Time Schedule Audio Files	July 9-10 Voting Agenda Minutes Time Schedule Audio Files	November Voting Agenda Minutes Time Schedule Audio Files

The Modernization Commission's website could also communicate when and how the public can provide input. For example, the Florida Commission's website contains a flowchart visually displaying an overview of the Commission's process, indicating the opportunities for public input.¹⁰² The red arrows below indicate the points whereby the public could participate in the decision-making process.

¹⁰² Florida Constitutional Revision Commission Website, *available at* <http://www.law.fsu.edu/crc/process.html> (last accessed Jan. 7, 2012).

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The Modernization Commission’s website might also include the process by which public comments are considered. For example, on the federal government’s rulemaking website, before a public comment is considered, a comment must be “properly received by that Department or Agency in accordance with the requirements described in the Federal Register notice.”¹⁰³

c. News and Updates

The Modernization Commission can provide news and updates to the public through periodic newsletters. The 1997-1998 Florida Constitutional Revision Commission and the 1970-1977 Ohio Constitutional Revision Commission distributed monthly newsletters to keep the public updated.¹⁰⁴ The 1970-1977 Ohio Constitutional Revision Commission published a print newsletter.¹⁰⁵ The 1997-1998 Florida Commission published its newsletters through its official website.¹⁰⁶

¹⁰³ Federal Government Regulations, available at <http://www.regulations.gov/#!privacyNotice> (last accessed Jan. 7, 2012).

¹⁰⁴ Florida Constitution Revision Commission, available at <http://www.law.fsu.edu/crc/newslet.html> (last accessed Jan. 7, 2012).

¹⁰⁵ Some of the Ohio newsletters are available at the Supreme Court of Ohio’s library.

¹⁰⁶ *Newsletters*, Florida Constitutional Revision Commission. Fla. St. Univ. (Dec. 10, 2011) <http://law.fsu.edu/crc/newslet.html>.

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The 1997-1998 Florida Commission's first newsletter described the process submitting public input.¹⁰⁷ Public proposals could be submitted at public hearings, through correspondence, and the official website.¹⁰⁸ The Executive Director of the Florida Commission reviewed each proposal, removed duplicates, organized them, and sent them to the full Commission for review.¹⁰⁹

The Modernization Commission could keep the public informed about its activities and upcoming meetings through an electronic newsletter. The newsletter could be posted on the official website and even e-mailed directly to individuals that subscribe to a listserv (an email list). An informative newsletter could encourage public attendance at the Commission's meetings and inform the public about the Commission's process.

The Modernization Commission could continuously inform the public and encourage participation in the revision process by distributing an electronic newsletter.

Another idea for providing the public with news and updates is to provide links to other news stories or editorials. Links to outside sources on the Commission could demonstrate the Commission's willingness to include all opinions by facilitating access to those opinions. For example, the U.S. Forest Service website provides the latest news for the Roadless Area project on that project's front page.¹¹⁰ This allows users to quickly see the most recent news updates on proposed rules. Under each date is a short description of the news content and a link to more detailed information on the topic.

¹⁰⁷ *September 1997 Newsletter*, Florida Constitutional Revision Commission. Fla. St. Univ. 10 (Dec. 10, 2011) <http://law.fsu.edu/crc/news/september97.pdf>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

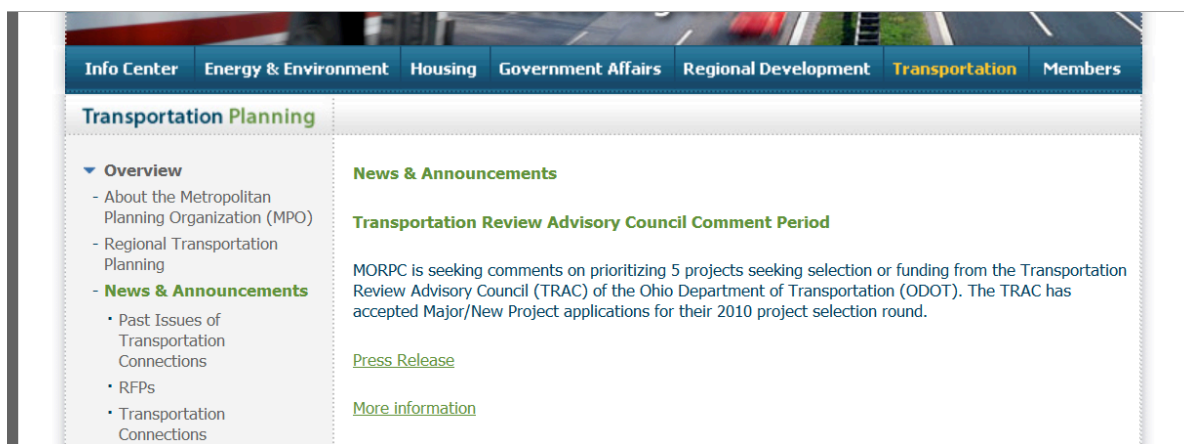
¹¹⁰

http://www.fs.usda.gov/wps/portal/fsinternet!/ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDfxMDT8MwRydLA1cj72BTfzMTAwjQL8h2VAQAJp-nEg!!/?ss=119930&navtype=BROWSEBYSUBJECT&navid=0910000000000000&pnavid=null&ttype=roadmin&cid=FSE_003853&position=RELATEDLINKS&pname=Roadless-Home (last accessed Jan. 7, 2012).

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The example below is from the Mid-Ohio Regional Planning Commission's website, which shows the latest news and announcements relating to public comment periods.



2. Online Tools that Engage the Public

An opportunity for the public to contribute to the decision-making process may help demonstrate that the modernization process is open and transparent and that public participation is welcomed. By facilitating multiple ways for individuals to contribute to the process, and conspicuously listing those ways, the public's participation becomes more convenient, the quality of the participation is enhanced, and the public's confidence and trust in the process is increased.¹¹¹ This section discusses online tools the Commission could use to engage the public. They include (a)

¹¹¹ Snyder, Monteze. *Building Consensus: Conflict and Unity*, (Earlham Press 2001).

options for engaging the public early in the process, (b) options for engaging the public later on in the decision-making process, and (c) rules for online participation that help reduce misuse of the site.

a. Early Options for Engaging the Public

The Modernization Commission can solicit comments and ideas from the public at various stages of the process. For some issues it might be beneficial if ideas are solicited at the beginning of consideration of an issue. One method to solicit comments or ideas is by having a series of directed question and answer sessions. For example, questions might be in different formats, such as multiple-choice or in the form of a choice box. Regardless of the method utilized, the intent is to solicit focused substantive input. Commission staff could facilitate the question and answer sessions, summarize public comments, and, at the end of each week, submit the summaries for the committees to review at their meetings.¹¹²

The Commission could use online tools to solicit public input early in the process through a series of directed question and answer sessions.

The example below asks a general question and provides specific answers that the user can select and submit.

ALL OUR IDEAS
CREATE. CONTRIBUTE. DISCOVER.

Vote on this example question and contribute your own ideas. You can create a question like this to discover the best ideas in your group or organization.

Cast Votes | View Results | About this page

What is our most important national priority?

Switch to a points-based immigration system to allow more innovators into the country.

Make exercise a requirement for employment

I can't decide

18894 votes on 255 ideas

Help your community
Add your own idea

Another method is called “Idea Forum.” Idea Forum allows users to post ideas around pre-determined themes. It is an approach designed to generate and solicit ideas through key questions.¹¹³

¹¹² For example <http://www.leegov.com/websurvey/Pages/survey.aspx>, <http://www.sanbag.ca.gov/omnitranscoa/form.html> (last accessed Jan. 7, 2012).

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Users can also comment on the ideas of other participants and rate an idea through a voting system.¹¹⁴ Below is an example from a Canadian website on educating First Nations youth. The user can select which issue to post their idea under or vote for a specific idea.¹¹⁵

Idea Forum

You can view the shared ideas below.

The screenshot shows a web interface for an 'Idea Forum'. At the top, there are tabs for 'Most Popular', 'Most Recent', 'English Only', and 'French Only'. Below these is a search bar with the text 'Theme: All Themes:' and a 'Go' button. The main content area displays three ideas, each with a 'Vote' button and a '+4' (or '+1' or '0') indicating the current vote count. Each idea is titled 'Spread the use of First Nations languages', 'Repair the culture', and 'A novel approach to First Nations high school educ' respectively. Below each title is a brief description and the submitter's name and date. At the bottom of each idea is a 'Read More | Comment' link. The interface also shows 'Reference #' and 'Idea Status' for each idea.

Vote +4

Spread the use of First Nations languages

Theme 6 — Areas that would make the most significant difference
Submitted by **Letstrythingsdifferently** 2011-06-23 04:51:38 EDT

Where practical and feasible, whenever local situations and conditions permit it, with favourable local circumstances and local agreement/consensus, I would perhaps suggest that Provinces and Territ... [Read More](#) | [Comment](#)

Reference #12121 Idea Status +4 | Total Votes 10 | Comments 13

Vote +1

Repair the culture

Theme 6 — Areas that would make the most significant difference
Submitted by **KFT** 2011-08-04 18:43:28 EDT

Its taken over a 100 years to get to this point. In my opinion it will take another hundred to repair the damage. The repercussions of the damage inflicted on (at the time) the first nations youth... [Read More](#) | [Comment](#)

Reference #12140 Idea Status +1 | Total Votes 3 | Comments 3

Vote 0

A novel approach to First Nations high school educ

Theme 6 — Areas that would make the most significant difference
Submitted by **willern** 2011-06-26 23:03:00 EDT

Based on the premise that there has to be a reasonable expectation that students will graduate after 12+ years of public education and that the provincial education curriculum is designed to graduate... [Read More](#) | [Comment](#)

A similar example comes from the FCC broadband website, displayed below.¹¹⁶ Across the top of the website there are three boxes explaining the different ways users can participate: contribute comments, discuss issues, and vote. Along the left side of the screen are the specific topics. The “ideas” in the middle chart are sorted by most popular or by most recent. Both of these features help users to find the issues they are most interested in. The large number in the chart is the number of votes the idea has received from other users. An idea with a large number signals to other users that

¹¹³ <http://ascentum.com/what-we-do/online-participation/> (last accessed Jan. 7, 2012).

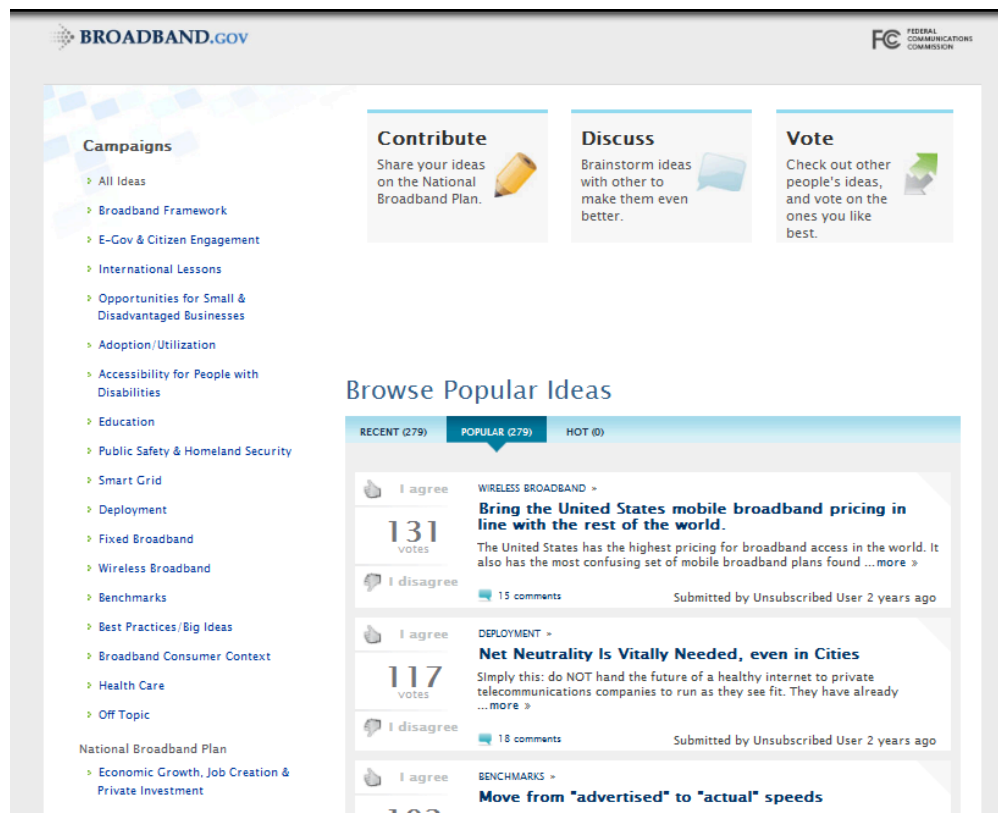
¹¹⁴ For example http://www.allourideas.org/priority_example, <http://firstnationeducation.ca/home/idea-forum/> (last accessed 1/7/12).

¹¹⁵ Participants are required to register and create a username before making submissions.

¹¹⁶ <http://broadband.ideascale.com/> (last accessed Jan. 7, 2012).

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the issue is popular and is receiving increased attention. Below each idea is the number of comments posted, which can be viewed and responded to by others. The comment feature on this website allows users to attach documents to support their ideas.



b. Later Options for Engaging the Public

For some substantive issues, public comments might be more beneficial later in the Commission's decision-making process, such as after a Committee has had the opportunity to discuss and develop potential solutions. Options such as "Choicebooks," online chat sessions, and "Virtual Tables," provide opportunities to comment on potential amendment recommendations and could enable the Commission to solicit targeted feedback.

Later in the process, the Commission could use online tools to solicit public input on proposals or potential final recommendations.

i. Choicebooks

Choicebooks is an online option that places participants in the shoes of decision-makers.¹¹⁷ Participants are given balanced information on issues, including benefits, drawbacks, and tradeoffs associated with different options. After reviewing the information, participants respond to open and close ended questions.¹¹⁸ This option could help the participants understand all of the challenges and considerations the commissioners face. This method would require an initial time commitment that some participants may not want to give, which may cause some people to forego participating in the process.

ii. Online Chat Sessions

Online chat sessions are another online tool that can be used to engage the public. Live chats are effective in that participant input is immediately considered and a reply is provided.¹¹⁹ Periodic chat sessions would give participants the opportunity to talk directly with commissioners and/or experts on substantive issues. Chat moderators could field questions and queue them for the speaker's response. Participants can choose to submit questions or silently listen. The example below, from the Ohio State University, is an example of an online chat session with an expert.¹²⁰

The screenshot shows the Ohio Agricultural Research and Development Center (OARDC) website. The header includes the OARDC logo, the text 'WELCOME TO OARDC', and a search bar. Below the header is a navigation menu with links: Home, Signature Areas, Study With Us, Centers & Departments, Technology & Commercialization, Resources, Opportunities, and Visit Us. On the left side, there is a sidebar menu with links: FACULTY/STAFF, SECREST ARBORETUM, LOCATIONS, ABOUT US, CONTACT US, RESOURCES, GIVE TO OARDC, 2010 ANNUAL REPORT, and OARDC SCHOLARS. The main content area displays a news article titled 'Bedbug Expert Offers Guidance on Online Chat Tuesday' dated 11/8/2010. The article text states: 'COLUMBUS, Ohio -- Susan Jones, Ohio State University Extension entomologist, will offer guidance on battling bedbugs in a live online chat on Tuesday, Nov. 9, at noon. The chat is sponsored by The Columbus Dispatch and can be accessed at http://www.dispatch.com/live/content/local_news/stories/extras/2010/bedbugs/index.html. The website also offers links to background information as well as bedbug-related stories previously published in The Dispatch. Jones, an urban entomologist who also has an appointment with the university's Ohio Agricultural Research and Development Center, specializes in household and structural arthropod pests. She is a steering committee member of the Central Ohio Bed Bug Task Force in Columbus/Franklin County and a longstanding member of the Joint Bed Bug Task Force in Cincinnati/Hamilton County. Much of her work in recent years has been focused on battling the growing bedbug problem in Ohio and throughout the U.S.'

¹¹⁷ Shane, Peter M., Building Democracy Through Online Citizen Deliberation: A Framework for Action, The Ohio State University Michael E. Moritz College of Law, 3 (2008). *See also* <http://ascentum.com/what-we-do/online-participation/> (last accessed Jan. 7, 2012).

¹¹⁸ For example http://www.northwestlin.on.ca/uploadedFiles/Home_Page/Get_Involved/Share%20Your%20Story,%20Shape%20Your%20Care%20-%20Paper%20Version%20March%2011.pdf, <http://www.ferndale-mi.com/services/communitydevelopmentservices/MasterPlanInputWorkbook.pdf> (last accessed Jan. 7, 2012).

¹¹⁹ <http://asonline.org/tools/> (last accessed Jan. 7, 2012)

¹²⁰ <http://www.oardc.ohio-state.edu/6863/Bedbug-Expert-Offers-Guidance-on-Online-Chat-Tuesday.htm> (last accessed Jan. 7, 2012).

iii. Virtual Tables

“Virtual Tables” is a similar but more comprehensive tool than chat sessions. The process begins with participants learning about issues through an online webcast.¹²¹ The participants are then assigned to a discussion group where they call in to a conference line. With a facilitator’s assistance, these discussion groups engage in a fifteen to thirty minute discussion at “virtual tables.” The ideas developed through the small group conversation are submitted online to a “theme team” that identifies common themes from all of the virtual tables. At the end of the discussion period, participants watch a report of the common themes on the webcast and use online voting tools to express their preferences among the themes. This process may be repeated several times across a set of related issues.

Virtual Tables is a convenient way for people from all over the state to interact with each other and to discuss substantive issues from the comfort of their homes. Virtual Tables require more resources than some of the other options. Also, to maximize this option’s effectiveness, the participants would need to be diverse in terms of race, socio-economic status, and geography.¹²² While this method requires additional resources, it could ensure that a representative cross-section of the population is surveyed.

iv. Opportunities to Learn about and Comment on Amendment Proposals

The Modernization Commission could dedicate a section of its website to public comment on amendment proposals under consideration. This section could present issues under consideration by each Committee, or final recommendations being reviewed by the Commission. Combined with a tentative calendar describing where in the process a proposal is, an opportunity to comment on potential amendment recommendations may be helpful in providing assurances to the public that the process is open and that individuals have an opportunity to comment on issues before they are submitted to the General Assembly.

In addition to providing an opportunity to comment on amendment proposals, the Commission could provide links to background information on the substantive issue under consideration. This background information could be a summary developed by the Commission itself and/or it could include the documents reviewed by the commissioners. The section could also

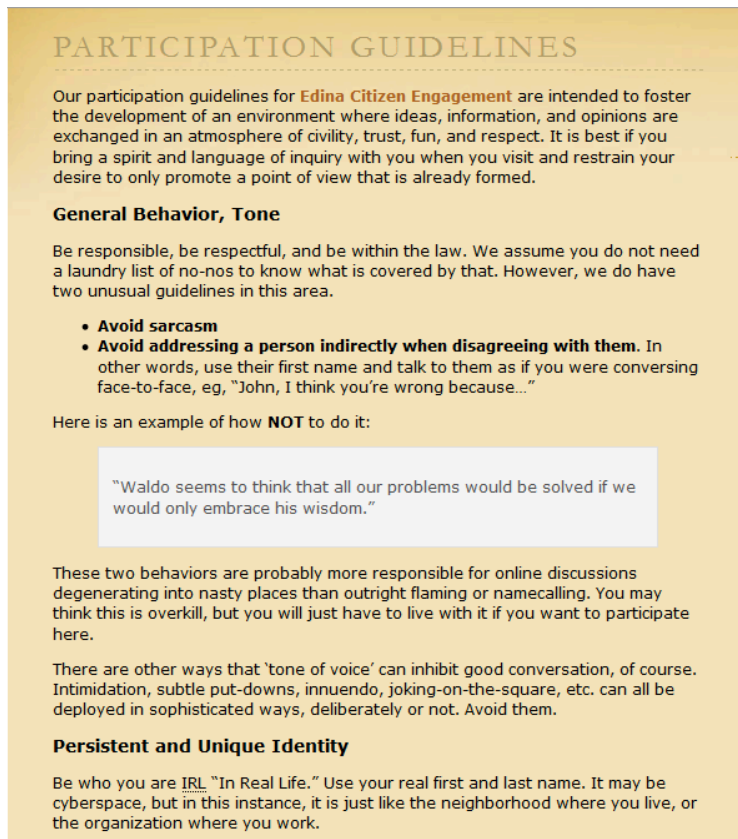
¹²¹ Process description came from <http://asonline.org/participants-join-national-discussion-at-virtual-tables/> (last accessed Jan. 7, 2012).

¹²² Lukensmeyer, Carolyn J. “Large-Scale Citizen Engagement and the Rebuilding of New Orleans: A Case Study,” Wiley, 5 (2007) *available at* www.interscience.wiley.com.

provide the rationale for why particular proposals were made. This would allow the public to see the Commission's reasoning and any countervailing positions.

c. Establishing Rules for Online Participation

Many websites that solicit public comment establish participation guidelines. The Commission might consider creating an online comment policy to encourage substantive and constructive input.¹²³ Below is an example from a community forum that provides its users with guidelines and recommendations for providing input.¹²⁴

A screenshot of a webpage titled "PARTICIPATION GUIDELINES" for Edina Citizen Engagement. The text explains the purpose of the guidelines: to foster an environment of civility, trust, fun, and respect. It lists two main rules: "Avoid sarcasm" and "Avoid addressing a person indirectly when disagreeing with them." An example of incorrect behavior is provided: "Waldo seems to think that all our problems would be solved if we would only embrace his wisdom." The guidelines also mention that these behaviors are common in online discussions and that there are other ways to inhibit good conversation, such as intimidation and subtle put-downs. Finally, it discusses "Persistent and Unique Identity," advising users to use their real first and last name.

PARTICIPATION GUIDELINES

Our participation guidelines for **Edina Citizen Engagement** are intended to foster the development of an environment where ideas, information, and opinions are exchanged in an atmosphere of civility, trust, fun, and respect. It is best if you bring a spirit and language of inquiry with you when you visit and restrain your desire to only promote a point of view that is already formed.

General Behavior, Tone

Be responsible, be respectful, and be within the law. We assume you do not need a laundry list of no-nos to know what is covered by that. However, we do have two unusual guidelines in this area.

- **Avoid sarcasm**
- **Avoid addressing a person indirectly when disagreeing with them.** In other words, use their first name and talk to them as if you were conversing face-to-face, eg, "John, I think you're wrong because..."

Here is an example of how **NOT** to do it:

"Waldo seems to think that all our problems would be solved if we would only embrace his wisdom."

These two behaviors are probably more responsible for online discussions degenerating into nasty places than outright flaming or namecalling. You may think this is overkill, but you will just have to live with it if you want to participate here.

There are other ways that 'tone of voice' can inhibit good conversation, of course. Intimidation, subtle put-downs, innuendo, joking-on-the-square, etc. can all be deployed in sophisticated ways, deliberately or not. Avoid them.

Persistent and Unique Identity

Be who you are IRL "In Real Life." Use your real first and last name. It may be cyberspace, but in this instance, it is just like the neighborhood where you live, or the organization where you work.

The example below is from a small business social networking website with more detailed rules that focus on impermissible actions.¹²⁵

¹²³ <http://edinacitizenengagement.org/participation-guidelines/> (last accessed Jan. 7, 2012).

¹²⁴ Shane, Peter M. *Building Democracy Through Online Citizen Deliberation: A Framework for Action*, The Ohio State University Michael E. Moritz College of Law, 28 (2008).

¹²⁵ <http://www.sbdccolumbus.com/main/authorization/termsOfService?previousUrl=http%3A%2F%2Fwww.sbdccolumbus.com%2F> (last accessed Jan. 7, 2012).

Terms of Service

[← Back](#)

The following Terms of Service apply to your use of this Network. You are solely responsible for your conduct and your content on the Network and compliance with these terms. By registering with us or using or browsing this Network, you acknowledge that you have read, understood, and agree to be bound by these terms. This Network is not directed to children younger than 13 and is offered only to users 13 years of age or older. Any person who provides their personal information through this Network represents that they are 13 years of age or older.

You agree that you will not post, email or make available any content or use this Network:

- In a manner that infringes, violates or misappropriates any third party's intellectual property rights or other proprietary rights or contractual rights;
- in a manner that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- to engage in spamming, "chain letters," "pyramid schemes", advertisement of illegal or controlled products or services, or other advertising or marketing activities that violate these Terms of Service, any applicable laws, regulations or generally-accepted advertising industry guidelines;
- in a manner that is misleading, deceptive or fraudulent or otherwise illegal or promotes illegal activities, including engaging in phishing or otherwise obtaining financial or other personal information in a misleading manner or for fraudulent or misleading purposes;
- in a manner that is libelous or defamatory, or in a way that is otherwise threatening, abusive, violent, harassing, malicious or harmful to any person or entity, or invasive of another's privacy;
- in a manner that is harmful to minors in any way;
- in a manner that is hateful or discriminatory based on race, color, sex, religion, nationality, ethnic or national origin, marital status, disability, sexual orientation or age or is otherwise objectionable;
- to impersonate any other person, or falsely state or otherwise misrepresent your affiliation with any person or entity, or to obtain access to this Network without authorization;
- to interfere or attempt to interfere with the proper working of this Network or prevent others from using this Network, or in a manner that disrupts the normal flow of dialogue with an excessive number of messages (flooding attack) to this Network. or

Additional rules of conduct the Commission might consider include imposing disincentives for violating rules, such as restricting of the ability to post additional comments. Comments on most federal regulations cannot be posted anonymously; but in other contexts, such as discussion boards or chat sessions, anonymous usernames are more common.¹²⁶ Anonymous usernames may incentivize the posting of inappropriate material. This concern could be remedied by requiring users to register prior to participating. If a chat session method is used, another option could be to have a moderator screen comments and questions for inappropriate material. If the Commission uses directed question and answer sessions, similar to the example in A.2.a above, then the risk of inappropriate material being posted is absent.

B. Outside Resources that May Support the Commission's Efforts

The Modernization Commission might choose to solicit the assistance of Ohio's colleges, universities, and professional organizations for research and logistical support.

¹²⁶ For example <http://www.regulations.gov/#!privacyNotice> (last accessed Jan. 7, 2012).

1. Colleges, Universities, and Professional Organizations

To save money and increase public participation in the revision process, the Commission might consider utilizing Ohio colleges and universities and other interested organizations to help with web development, public outreach, and research. The 1970-1977 Ohio Constitutional Revision Commission and the 1997-1998 Florida Constitutional Revision Commission benefited from the support of state universities and other organizations throughout their revision processes.

The Commission could utilize academic institutions, professional organizations, the media, and social media to inform and engage the public.

Florida State University hosted the 1997-1998 Florida Revision Commission's official website and provided useful information about the Florida Constitution for the public. The 1970-1977 Ohio Revision Commission collaborated with several colleges throughout Ohio for symposiums on the Constitution and the revision process. The current Constitutional Modernization Commission will hopefully benefit from the Colloquium, and other colleges may follow suit by offering colloquiums of their own. In addition, Cleveland State University Cleveland-Marshall College of Law hosts a website on the history of the Ohio Constitution.¹²⁷ The Commission could reach out to these colleges and organizations for assistance with web design and hosting, resources, research, and educational programs.

Ohio might also benefit from the assistance of local professional organizations. In Florida, the Florida Bar volunteered to provide scholarly legal research to the 1997-1998 Constitutional Revision Commission as a service to the citizens of Florida. The research did not represent positions of The Florida Bar or its divisions, sections, or committees, but rather objective, unbiased legal analysis.¹²⁸

2. Media Strategies and Public Service Announcements

Ohio is comprised of multiple geographic regions, each with their own unique needs and interests. A comprehensive media strategy that takes into account the various differences of Ohio's regions could help the Commission reach a broad segment of the population. A comprehensive media strategy might include newspaper articles, radio and television public service announcements, targeted mailings, and the Internet. The purpose of a comprehensive media strategy is to provide

¹²⁷ See <https://www.law.csuohio.edu/lawlibrary/ohioconstitution>.

¹²⁸ Edward R. Blumberg, *Lawyers Go Beyond the Call of Duty to Assist the Constitution Revision Commission*, 72 Fla. B.J., 4 (May 1998).

information on all aspects of the Commission's work and to prevent, or counteract, the spread of misinformation.

Commissioners could participate in these efforts through public service announcements.¹²⁹ Public service announcements on television and radio could reach a broad audience and inform the general public about the Commission's activities. Commissioners could make public service announcements about upcoming meetings and hearings and provide updates on the Commission's progress. Most importantly, the Commission would not have to pay to run the public service announcements. The Commission may consider whether it could partner with PBS or another local television station to broadcast public service announcements and keep the public informed of upcoming Commission meetings.

3. Social Media

The Commission could also utilize social media to enhance public education and participation. Social media is an online method of communication predicated on user-generated content. Social media sites are quickly becoming the preferred method of communication for individuals across all regions and demographics. Facebook, for example, has approximately 845 million monthly active users.¹³⁰ People use Facebook to “stay connected with friends and family, to discover what’s going on in the world, and to share and express what matters to them.”¹³¹

Social media sites can serve as a tool for the Commission to engage the public, and as an additional forum for the public to provide input. A Facebook page would allow the Commission to update the public on its progress and inform the public about upcoming meetings and events. Individuals could “like” or “friend” the Commission’s page, which has the effect of increasing the number of people who might take notice of the page. Facebook also gives the page owner the ability to permit individuals to post comments. The Commission could also upload video of meetings to the site.

¹²⁹ A public service announcement is defined by the Federal Communications Commission (FCC) as “any announcement for which no charge is made and which promotes programs, activities, or services of federal, state, or local governments or the programs, activities or services of non-profit organizations and other announcements regarded as serving community interests, excluding time signals, routine weather announcements and promotional announcements.” *Public Service Announcements*, The Museum of Broadcast Communications (Dec. 9, 2011)

<http://www.museum.tv/eotvsection.php?entrycode=publicservic> .

¹³⁰ Facebook Newsroom Factsheet, <http://newsroom.fb.com/content/default.aspx?NewsAreaId=22>.

¹³¹ *Id.*

The Facebook page of the Arkansas Game and Fish Commission's site is an example of a government entity effectively using social media.¹³² The Arkansas Game and Fish Commission oversees the protection, conservation and preservation of various species of fish and wildlife in Arkansas. The Arkansas Game and Fish Commission's Facebook page is accessible to the general public regardless of whether or not an individual has a Facebook account. The Facebook page advertises monthly events, including directions to each event, and allows individuals to indicate whether or not they plan to attend.¹³³ The Arkansas Commission also posts pictures of past community events and even has pictures of the commissioners. The site administrators are very responsive to comments and answer questions people post about the local fish and gaming laws. Every visitor to the page can see the questions and answers, and occasionally, other visitors will also answer questions.¹³⁴ The commission developed rules for posting comments on its site and enforces those rules by issuing one warning for a first violation. "Fans" that violate the rules a subsequent time are removed. The page is clearly popular as it had 44,857 "likes" as of January 10, 2012.

The Ohio Constitutional Modernization Commission could reach a large number of people through a Facebook page similar to the Arkansas Game and Fish Commission. A Facebook page is free to create and could be managed by either a public information officer or a committee designated as the manager of the Commission's public relations.

C. Regional Committee Meetings Throughout the State

The commissioners themselves can play a role in keeping the public informed and engaged. Legislative members can reach out to their constituents and inform them of the significance of the Commission's work. Nonlegislative members can encourage their co-workers, friends, and peers to participate in the Commission process. Further, regional Commission meetings could increase public awareness by putting Commission members in direct contact with Ohioans.

The 1970-1977 Ohio Revision Commission held regional meetings to encourage public participation. The rules adopted by the Commission "required that all Commission and committee meetings be open to the public, and that at least one opportunity for public testimony be offered on

¹³² "Info." *Arkansas Game and Fish Commission*. Facebook, 2011 (Dec. 9, 2011).

<<http://www.facebook.com/ARGameandFish#!/ARGameandFish?sk=info>>.

¹³³ "Events." *Arkansas Game and Fish Commission*. Facebook, 2011 (Dec. 9, 2011).

<<http://www.facebook.com/ARGameandFish#!/ARGameandFish?sk=events>>.

¹³⁴ "Wall." *Arkansas Game and Fish Commission*. Facebook, 2011 (Dec. 9, 2011).

<<http://www.facebook.com/ARGameandFish#!/ARGameandFish?sk=wall>>.

V. External Process Options For the Constitutional Modernization Commission

all proposed recommendations before their submission to the General Assembly.”¹³⁵ “Each subject matter committee met approximately monthly; studied research materials prepared by staff and consultants on the topic under consideration; invited public comment on the issues before it; solicited opinions and testimony from experts on the subject; and formulated recommendations to be presented to the Commission.”¹³⁶ These committee meetings were held in various locations statewide.

The 1997-1998 Florida Commission effectively brought the Commission to the people at the beginning of its tenure. Before the 1997-1998 Florida Revision Commission formally met, its steering committee gathered ideas for revisions from scholars, lawyers, and individuals that previously worked with the 1977-1978 Commission.¹³⁷ When the Commission was formally organized, it utilized a two-phase process for collecting substantive information and engaging the public. The first phase included organizational meetings for introductions, speeches, and admonitions by the state’s political leaders and former commission members.¹³⁸ The second phase included holding public meetings for the purpose of gathering information on substantive issues. The 1997-1998 Florida Commission developed a hearing schedule that included sixteen hearings spanning every urban area in Florida, with the idea of facilitating public input by providing locations within a two-hour drive for any citizen of the state.¹³⁹ During its first three months, the Florida Commission held public hearings in eleven different cities throughout the state of Florida.¹⁴⁰ Members of the public were able to submit proposals in person at these hearings, although they were still able to continue to submit proposals throughout the entire process. During the remainder of its term, the full Commission held meetings in Tallahassee. The Florida Commission also coordinated

¹³⁵ Ohio Constitutional Revision Commission. *Recommendations for Amendments to the Ohio Constitution, Final Report*, 19 (Ohio 1977).

¹³⁶ *Id.*

¹³⁷ Salokar, Rebecca Mae, *State Constitutions for the Twenty-first Century*, 41 (State University of New York Press 2006).

¹³⁸ *Id.* at 24.

¹³⁹ The 1997-1998 Florida Revision Commission published its hearing transcripts on its website. The Florida Commission’s public hearing transcripts were provided with the assistance of the Florida Division of Administrative Hearings. The Florida Division of Administrative Hearings assured speedy and accurate access to transcripts from full committee hearings by providing two court reporters who recorded all statements during the sessions, made rough drafts of the transcripts available online immediately following the sessions, and made complete and edited texts available within 12 hours of the end of a session. The real-time reporting service helped facilitate the exchange of information between the public and the Commission.

¹⁴⁰ *September 1997 Newsletter*, Florida Constitutional Revision Commission. Fla. St. Univ. 12 (Dec. 10, 2011) <http://law.fsu.edu/crc/news/september97.pdf>.

its efforts with those of Florida State University so that it could televise each public hearing throughout the state.¹⁴¹

The Modernization Commission could also hold full Commission and committee meetings throughout the state. Regional meetings serve the dual purpose of informing voters and providing an opportunity for individuals that might not be able to travel elsewhere to participate in the Commission process. The idea behind regional meetings is to make the Commission more accessible, thereby creating a practice of openness and increasing public trust.

Commissioners could keep the public informed and engaged by holding regional hearings and raising public awareness about the revision process in their communities.

At many of the 1997-1998 Florida Revision Commission's public hearings, individuals tended to speak off-topic and expressed narrow ideological goals or frustrations with the Legislature's failure to enact the laws or institute specific programs.¹⁴² If the Modernization Commission decides to seek public input at its meetings, it might choose to provide specific procedural ground rules for participation so that input remains substantive, constructive, and on topic.

D. Presenting Final Recommendations to the General Assembly

The 1970-1977 Ohio Revision Commissioners interviewed before the first Colloquium Planning Committee meeting recommended that the current Commission members present their proposals to the General Assembly along with their written reports. In the 1970s, the Ohio Revision Commission presented its final amendment recommendations to the General Assembly through reports that included majority and minority positions. The Final reports contained a rationale for all recommendations "for the benefit of those interested in pursuing them further."¹⁴³ The former commissioners explained that it would be better if the Commission

Former Ohio Revision Commissioners suggested that Commission members should personally present their final recommendations to the General Assembly.

members actually explained their rationale to the General Assembly—in person—instead of using a written report alone. In-person presentations would help the General Assembly understand the reasoning behind each proposal and would provide legislators with an opportunity to ask questions.

¹⁴¹ Id. at 18-19.

¹⁴² Joseph Little, *The Need to Revise the Florida Constitutional Revision Commission*, 52 Fla. L. Rev. 475, 478 (2000).

¹⁴³ Ohio Constitutional Revision Commission, Recommendations for Amendments to the Ohio Constitution, Final Report, 1 (Ohio 1997). 1 (Introductory letter to the General Assembly).

VI. Research and Staff Options for the Constitutional Modernization Commission

The final category of options the Colloquium Planning Committee presents to the Commission concerns staffing of the Commission and its research activities. Because the Modernization Commission has a structure and mission similar to the 1970-1977 Ohio Constitutional Revision Commission, the Commission may find it useful to consider how the previous Commission undertook staffing and research. This section covers (A) staffing on the 1970-1977 Revision Commission, (B) research activities of the 1970-1977 Revision Commission, and (C) experiences with staffing and research in other states.

A. Staffing on the 1970-1977 Ohio Constitutional Revision Commission

In its Final Report, the Ohio Constitutional Revision Commission noted the importance of its competent staff and consultants to the completion of its mission. In addition to the extensive research necessary for the Commission to make informed decisions on amendment recommendations, Commission members relied on staff to maintain contacts with the public, schedule and attend meetings, and prepare reports and recommendations for the General Assembly.¹⁴⁴

The 1970-1977 Revision Commission staff included a director, a staff attorney, a research associate, a secretary, and three clerical staff. The director and staff attorney were the first positions to be filled, and a research associate was employed from 1972 onward. In addition, consultants, both paid and unpaid, were used at various times by the Commission. In total, the Commission employed nine staff members and consulted twenty independent contractors.

The Modernization Commission may find it useful to consider how the 1970-1977 Commission undertook staffing and research matters.

The 1970 -1977 Commission staff included a director, a staff attorney, a research associate, a secretary, and three clerical staff.

1. Staff Members

The first action the 1970-1977 Ohio Revision Commission took, after selection of the twenty nonlegislative members, was to search for staff to assist the Commission. Ann Eriksson was the first staff member chosen, in the position of Director.¹⁴⁵ Ms. Eriksson had previously served as Assistant

¹⁴⁴ Ohio Constitutional Revision Commission 1970-1977, Final Report, 1.

¹⁴⁵ Ohio Constitutional Revision Commission 1970-1977, Proceedings Research, vol. 1, at 5.

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Director and Chief of Legal Services for the Legislative Service Commission from 1967-1971.¹⁴⁶ Prior to selecting Ms. Eriksson, a member of the LSC suggested to the Commission that a Director should receive at minimum the average salary for directors of state departments at that time.¹⁴⁷ The Commission hired Ms. Eriksson as Director at a salary of \$13.28 per hour (\$27,622 annually).¹⁴⁸ The United States Bureau of Labor Statistics Inflation Calculator estimates that \$27,000 in 1971 dollars has the buying power of \$150,000 in 2011 dollars.¹⁴⁹

The Final Report and Proceedings Research of the Revision Commission indicate the importance of the Director to the development of the Commission's recommendations, to meeting its reporting requirements, and to its mission of reviewing the Ohio Constitution in a timely manner. Ann Eriksson served as Director until the Commission completed its work in 1977, providing continuity as Commission membership changed. The record of the Revision Commission shows that the Director provided support to the Commission in at least three ways. First, in addition to directing staff research activities, the Director provided updates on the progress of the staff's research at Commission meetings, and responded to inquiries about substantive matters based on staff research and personal knowledge. Second, the Director kept the Commission apprised of the progress of its recommendations as they progressed through the General Assembly. The Revision Commission remained mindful of upcoming election dates and took care to ensure its recommendations were sent to the General Assembly with sufficient time for deliberation. The Commission used updates from the director to make effective decisions, such as which issues to pursue first given the amount of time remaining before an election. Third, the Director coordinated and sometimes led committee work.

The Director and staff of the 1970s Commission were instrumental in helping the Commission develop its recommendations and meeting its reporting requirements.

Upon being hired, Ms. Eriksson was given authority to hire additional staff. The first person reported as hired by Ms. Erikson was Julius Nemeth, as staff attorney. Mr. Nemeth was formerly an assistant attorney general in Ohio, and was hired by Ms. Eriksson three months after her selection as director.¹⁵⁰ The Final Report of the Commission also states that there was a research associate from 1972 onward, and a secretary position, presumably from the beginning of the Commission until its

¹⁴⁶ Ohio Constitutional Revision Commission 1970-1977, Final Report, 13.

¹⁴⁷ Ohio Constitutional Revision Commission 1970-1977, Final Report, 3.

¹⁴⁸ See R.C. §124.15 (1972).

¹⁴⁹ The United States Bureau of Labor Statistics Inflation Calculator, http://www.bls.gov/data/inflation_calculator.htm (last visited Jan. 28, 2012).

¹⁵⁰ Ohio Constitutional Revision Commission 1970-1977, Proceedings Research, vol. 1, at 15.

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end.¹⁵¹ Additionally, the Final Report lists seven student researchers, three clerical staff, and twenty professional consultants.¹⁵² It is not clear from the Final Report or apparent from the record how long the clerical staff, consultants, and student researchers were employed and/or volunteered.

While staff salaries do not seem to have been preserved in published Commission materials, the record mentions that at least some of the consultants were paid for their services. On January 23, 1975, the Chairman of the Commission noted that out of total expenditures in (presumably fiscal years) 1974-1975, \$100,000 was spent on “salaries and personal services[,]” which included consultants’ fees.¹⁵³ This is a period of fifteen months, and it could be roughly approximated that during fiscal year 1974 a little under \$100,000 out of the \$150,000 budget was spent on salaries and personal services.

When approaching its staffing options and needs, the Modernization Commission may want to consider the experience of the previous Commission, given the similarity in the missions of both Commissions and prospective tasks of each. If the Modernization Commission hires a director and confers broad authority to the director to manage the affairs of the Commission, and hire additional staff, the director’s duties could include:

- Interacting with Commission Co-Chairs to respond to research and other requests;
- Delegating tasks to, and organizing the work of, the Commission staff and Commission’s committees; and,
- Scheduling and performing other administrative functions.

The Commission, or the director if hired, may consider hiring an administrative assistant to support Commission activities. The Commission could consider asking the House and Senate leadership whether it is possible to provide a full-time administrative assistant from among its staff, maintaining the assistant on the House of Representatives and/or Senate payrolls. The director and/or Commission might also consider whether a deputy director is warranted based on the Commission’s budget and workload. Additional staff employees, such as professional, technical, and clerical staff, and research associates, may be hired to work directly with the Commission committees if deemed appropriate.

The Commission may want to consider hiring a staff attorney to engage in research and to coordinate any research conducted by outside institutions and/or consultants. A dedicated staff attorney could provide continuity of research activities as well as maintain relationships with outside

¹⁵¹ Ohio Constitutional Revision Commission 1970-1977, Final Report, 13.

¹⁵² *Id.* at 14. The Final Report of the Commission lists the names and locations of the 20 consultants, but does not list professions or note whether the consultants were paid or volunteered.

¹⁵³ Ohio Constitutional Revision Commission 1970-1977, Proceedings Research, vol. 1, at 521.

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organizations, associations, and institutions. The Commission's co-chairs and/or director may consider requesting the full-time use of an attorney from the Attorney General's office, if the attorney would remain on the agency's payroll.

Staff members of the 1970-1977 Revision Commission were also involved in the public information activities, such as preparing newsletters and press releases, and responding to public inquiries, which included mailing Commission research, reports, and meeting summaries to anyone that made a request.¹⁵⁴ Today, these activities could easily be performed by using a website and other communications technology. The Modernization Commission may want to consider hiring a public information officer dedicated to managing the Commission's communications with the public. In addition to facilitating the important goals of openness and transparency, a staff member dedicated to performing communications functions could allow other staff members to focus on essential research and writing tasks.

The Modernization Commission might consider employing a Public Information Officer to manage the Commission's public communications and coordinate the Commission's online activities.

2. Budget Information of the 1970-1977 Revision Commission

Some of the appropriations and expenditures of the 1970-1977 Revision Commission are available, although a line-by-line budget does not seem to be in the record of the Commission. The Commission was given \$100,000 for the years 1970 and 1971 from the Emergency Board's general-purpose fund.¹⁵⁵ The Commission was then appropriated \$300,000 per biennium in the years 1971-1972,¹⁵⁶ and 1973-1974.¹⁵⁷ The Commission's total operating expenses for the biennium of 1973-1974 to 1974-1975 were \$279,900.¹⁵⁸ The Commission's total operating expenses for the biennium of 1975-1976 to 1976-1977 were \$329,698.¹⁵⁹ The United States Bureau of Labor Statistics Inflation Calculator reports that \$150,000 in 1971 has the purchasing power of \$838,000 in 2011.

While the \$1 million or more spent on the Revision Commission is a significant amount, it compares favorably with the \$3.8 million that Texas spent for a Constitutional Convention in the

¹⁵⁴ Ohio Constitutional Revision Commission 1970-1977, Final Report, 19.

¹⁵⁵ Laws of Ohio Book II, 1969-1970, at 1979.

¹⁵⁶ Ohio Appropriation Acts, 1971-1972, at 489.

¹⁵⁷ Ohio Constitutional Revision Commission 1970-1977, Proceedings Research vol. 1, at 511.

¹⁵⁸ See Am Sub HB No 86, 1973-1974 vol. 135 supp. 88 (1973), 110th General Assembly, Regular Session.

¹⁵⁹ See Am Sub HB 155, 1975/76 vol. 136 supp. 194 (1975) 111th General Assembly, Regular Session.

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mid-1970s.¹⁶⁰ The more recent 1997-1998 Florida Constitution Revision Commission was appropriated a total of \$1.6 million. The Florida Steering Committee that developed the Commission's budget, procedures, schedules, and other items prior to the beginning of the Commission work was appropriated \$100,000.¹⁶¹

As indicated above, a significant portion of the 1970-1977 Ohio Revision Commission's budget went toward staff salaries. Additional expenditures included:

- A monthly newsletter, beginning in June 1972;
- A process for mailing postcards for votes from absent Commission members¹⁶² and;
- Mailing meeting notes to members for their approval.

The Modernization Commission may want to consider whether these activities are applicable to the current Commission, and whether electronic means could increase efficiency and reduce costs as appropriate to the mission of the Commission. The Commission could use electronic methods, such as e-mail or wireless tablets, for notifying members of meetings and providing updates on research. The Commission may, however, wish to give members the option of receiving mailed notification if they choose to opt out of electronic notification.

The Commission also had a dedicated office, though it is not clear from the record if rent was paid. The first office listed in the Commission's newsletters was 20 South Third Street, Room 212, in Columbus. The Commission later moved to the Neil House Motor Hotel, on Capitol Square, at 41 South High Street, in Columbus.

The Commission originally agreed to meet monthly in Room 11 the House of Representatives. The location was changed at various times throughout the life of the Commission, though generally it met monthly at the Statehouse. Committees also met monthly. As published in newsletters, locations for committee meetings in Columbus included the Statehouse, the Commission's offices, the Athletic Club, and Scot's Inn. In Cleveland, the Hollenden House Hotel was used. It is not clear from the Commission's record if it was charged for the use of venues other than its offices and the Statehouse.

¹⁶⁰ Albert L. Sturm, *The Procedure of State Constitutional Change – With Special Emphasis on the South and Florida*, 5 Fla. St. U. L. Rev. 569, 576 (2000).

¹⁶¹ W. Dexter Douglass, *The 1997-1998 Constitution Revision Commission: Valuable Lessons from a Successful Commission*, 5 Fla. St. U. L. Rev. 275, 277-278 (2000).

¹⁶² Ohio Constitutional Revision Commission 1970-1977, Proceedings Research, vol. 1, at 396. It is not clear how long this process was used.

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In May of 1975, the State Auditor, at the request of the Auditor's office, audited the Commission.¹⁶³ The Commission's books were found to be in excellent order. The 1970-1977 Revision Commission's appropriation of \$300,000 per biennium was cited as one of the reasons the Commission was audited, in addition to the fact that it was a state agency. The Secretary of the Commission also acted as a fiscal officer. The Modernization Commission may consider the use of a part-time financial officer. The financial officer may be independent of a state agency, or could be an additional role of an existing staff member, as on the 1970s Commission.

B. Research Activities of the 1970-1977 Ohio Constitutional Revision Commission

The staff of the 1970-1977 Revision Commission conducted extensive research and completed hundreds of memoranda for commissioners. Additionally, the Colloquium Planning Committee has heard from LSC employees working in the 1970s that the Revision Commission director, Ann Eriksson, made extensive use of LSC for research projects.

The Revision Commission's Final Report notes that the Commission also studied, and made extensive use of, the Model State Constitution and other materials published by the National Municipal League.¹⁶⁴ A search of the Internet and the League's website shows that the most recent version of the Model State Constitution is from 1968. The Modernization Commission, if it chooses to review the Model Constitution, will be reviewing the same Model available to the previous Commission, and it may benefit from reviewing the 1970-1977 Revision Commission's work and commentary on the Model, if available. The Revision Commission's Final Report also indicates that the League of Women Voters published background materials available to the public, but it seems that the materials intended to educate the public more than the Commission.¹⁶⁵

The Final Report also notes three other reports that were helpful.¹⁶⁶ The Institute of Government Research at the University of Cincinnati was commissioned by the Stephen H. Wilder Foundation to make a systematic study of the Ohio Constitution, and this was published in 1970.¹⁶⁷ The Center for Urban Regionalism at Kent State University, with financial support from the Greater Cleveland Associated Foundation, held a conference in 1969 that resulted in a book on constitutional

¹⁶³ Ohio Constitutional Revision Commission 1970-1977, Proceedings Research, vol. 2, at 573.

¹⁶⁴ Ohio Constitutional Revision Commission 1970-1977, Final Report, 16. The National Municipal League changed its name to the National Civic League in 1986.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Stephen H. Wilder Foundation, State Government in Our Times: A New Look at Ohio's Constitution (1970).

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revision.¹⁶⁸ Finally, the Commission co-sponsored a seminar on local government with The Ohio State University College of Law and the Ohio Municipal League. Papers from the seminar were published in the Ohio State Law Journal in 1972.¹⁶⁹

The Modernization Commission may want to consider whether outside sources of research, such as law school faculty and students, retired lawyers and judges, and other sources of independent research, such as foundations, can assist the Commission in the completion of its mission. The Modernization Commission may also consider if and how the LSC can contribute to the success of the Commission. The Commission, and the director if hired, could make use of the research capability, drafting expertise, institutional knowledge, and staff services of LSC staff, and establish and maintain a working relationship with LSC.

Outside sources of research, such as educational institutions, professionals, and independent organizations could provide additional support to the Commission's research activities.

C. Experiences with Staffing and Research in Other States

When the Virginia Commission on Constitutional Revision began its work in 1968, it made use of law school faculties and law students in the state.¹⁷⁰ The Commission was divided into five subcommittees, and each subcommittee was assigned legal counsel from the practicing bar or from one of the state's law school faculties.¹⁷¹ Additionally, a number of law students worked during the summer of 1968 to produce 150 research memoranda.¹⁷²

In Florida, the University of Florida College of Law conducted legal research for the 1997-1998 Commission, though it was prepared before the Commission's meetings.¹⁷³ The Florida Commission had only one year to complete its work, so it was likely necessary for the College of Law to conduct this research before, rather than during, the Commission's deliberations.¹⁷⁴ In addition to providing information on the Commission's work, the website of the Commission, hosted by the Florida State University, contained transcripts of meetings, journals of its sessions, agendas for past and upcoming sessions, analyses, and other documents.

¹⁶⁸ Kent State University, Political Behavior and Public Issues in Ohio, (James G. Coke & John J. Gargan, eds., Kent State University Press 1972).

¹⁶⁹ Symposium: *Constitutional Aspects of Ohio Local Government*, 33 Ohio St. L.J. 572 (1972).

¹⁷⁰ A.E. Dick Howard, *Constitutional Revision: Virginia and the Nation*, 9 U. Rich. L. Rev. 1, 4-5 (1974-1975).

¹⁷¹ *Id.* at 5.

¹⁷² *Id.* The article does not discuss whether students were compensated or uncompensated.

¹⁷³ Sturm at 280.

¹⁷⁴ *Id.* at 276.

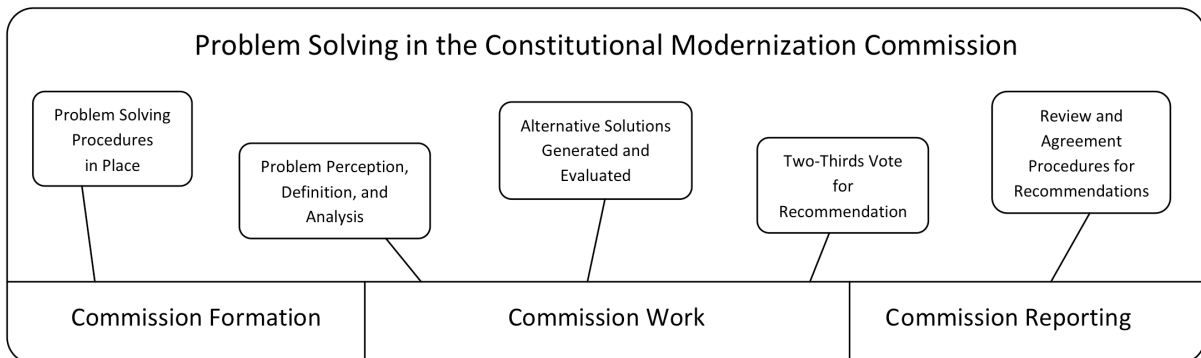
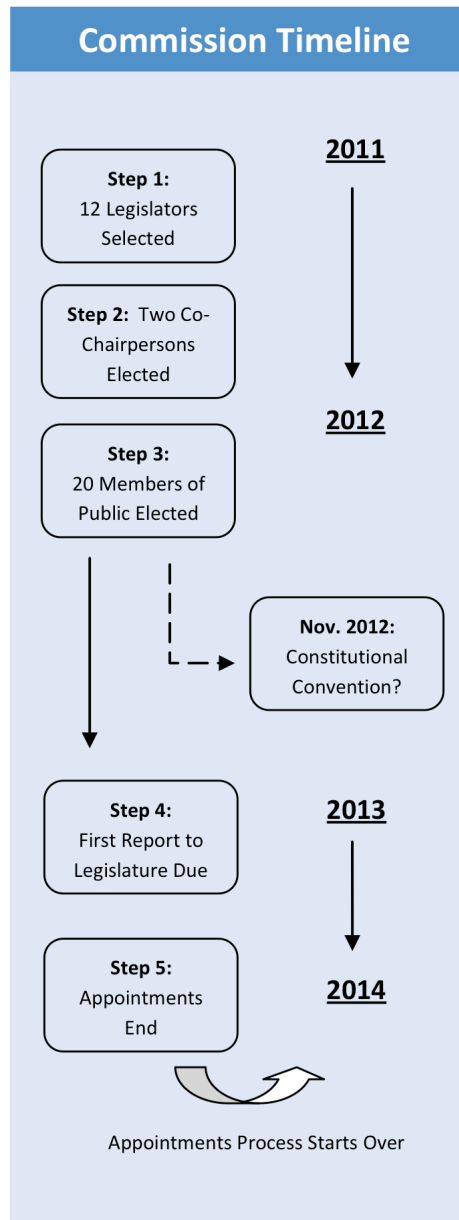
VII. Concluding Remarks

VII. Concluding Remarks

The Colloquium Planning Committee has reviewed the experiences of past state constitutional revision commissions and other relevant research relating to decision-making, public participation, and research and staffing, and has suggested process options that might assist the Ohio Constitutional Modernization Commission in its operations. The Planning Committee thanks the Commission for its consideration of the suggestions contained in this report and wishes the members of the Commission success in the years to come.

APPENDICES

Appendix A Process Flowchart



Appendix B

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Appendix C

Interviews with Commissioners from the 1970-1977 Ohio Revision Commission and Current Colloquium Committee Members

During the Colloquium planning process, the Committee's Research Fellows interviewed current Colloquium Committee members and several former Ohio Constitutional Revision Commissioners about the upcoming Ohio Constitutional Modernization Commission. Four former Commissioners agreed to speak for attribution: John McDonald, Mike Oxley, Mike Stinziano, and Neal Zimmers. These former Commissioners were asked to describe their experience with the 1970-1977 Ohio Constitutional Revision Commission and to offer advice for the newly appointed Commissioners.

I. Consensus Building and Running the Commission Effectively

A common theme throughout each interview was the importance of building consensus among the Commissioners at the beginning stages in order to maintain an environment where the Commissioners will be able to successfully work together. Former Commissioner, Mike Stinziano, advised that the Commissioners should select a leader who will bring the right temperament to the meetings in order to maintain a successful working environment. If necessary, the Commission might consider hiring an outside person to lead who has a proven success record in mediation in order to get everyone talking and working together. Former Commissioner, Neal Zimmers, also believed that a good leader would encourage the Commissioners to respect each other and recognize the importance of the diverse experience each Commissioner brings to the table.

One way the leader can help build consensus among the Commissioners at the beginning of the revision process is to begin by addressing topics in the Ohio Constitution that everyone is likely to agree on. By starting with easier topics, the Commissioners will become more comfortable with the process and working together.

One of the Colloquium Committee members recommended a three-step process for approaching constitutional revision in a way that will build consensus. First, the Commission could address technical changes that will improve the Constitution. The Commission may consider removing material that is best left to statutory law and improve or remove select language. These technical changes will likely be agreeable to most Commissioners and approved. Second, the Commission could begin to address substantive areas that have a good chance of reaching consensus. Finally, the Commission should consider difficult topics where consensus is unlikely. By reserving

potentially contentious topics for last, the Commissioners will have already successfully addressed the other areas of the Constitution and built a constructive working relationship with one another that will help them address and hopefully resolve these difficult issues.

Former Commissioner Mike Stinziano suggested that the Commission may also benefit from having a neutral third party present issues when consensus seems unlikely. The neutral party should present all sides of the argument and include statistical analysis if necessary. Mr. Stinziano suggested that the Commission might be able to find neutrals among the staff, or may even contact the LSC, PEW, or League of Women Voters. It may also be a good idea to consider using a neutral who is not involved in Ohio politics, such as someone from a national foundation or organization with the resources to serve the Commission.

Recapping is another successful consensus building technique. The 1970-1977 Ohio Revision Commission formed committees to address substantive areas of the Constitution. To help the Commissioners reach consensus within their committees, former Commissioner, John McDonald, advised that the committee chairs use the mediation technique of recapping what they believe each side is saying. Many times an individual will think he or she has heard and understood what someone else is trying to say, but this is not always the case. Recapping allows the other person to clarify his or her position and prevents misunderstandings. Recapping helps everyone involved in the discussion to maintain an open mind and builds consensus.

One issue that may impede consensus building within the Commission is the turnover of Commission members. To ensure as smooth a transition as possible when Commissioners leave and new members join, the committees should be large enough that some members will remain from the previous term during changeovers. Former Commissioner, John McDonald, explained that the committees during the 1970-1977 Ohio Constitutional Revision Commission were large enough to retain some members through Commission changes and this helped to maintain continuity. He recommended that the current Commission follow this example to ensure smooth transitions.

Former Commissioner, Mike Stinziano, mentioned that the Commissioners should be able to work together without resorting to “Robert’s Rules of Order.” By including some of the consensus building techniques recommended by the former Commissioners and Colloquium Committee members, the Ohio Modernization Commission will hopefully be able to effectively work together to make the revision process a success.

II. Approach to Substantive Issues the Commission May Consider

Former Commissioner Neal Zimmers advised the current Commissioners to keep in mind that the Constitution is the guiding principal for the state and the Supreme Court of Ohio will always

honor it. Therefore, it is imperative that the changes made are clear, concise, and common sense. The Commission's decisions must also have practical real world application. Some provisions may look good on paper, but might not be successfully applied in reality. Mr. Zimmers also recommended that the Commission not include highly specialized provisions in the Constitution so the General Assembly will be free to address these issues if necessary in the future.

One strategy for reviewing the Constitution to identify provisions in need of revision was recommended by former Commissioner John McDonald during his interview: First, identify the parts of the Constitution that need to be removed or modified. Second, identify subjects that should be included in the Constitution. Third, look at the actual mechanism for amending the Constitution. Make sure the amendment process is both liberal and stringent enough to be successful in the future by safeguarding against too many provisions being able to be added but still open to the ballot for important changes by the public. Finally, decide how the Commission should promote their recommendations to the General Assembly.

The former Commissioners and Colloquium Committee members all agreed that merely submitting the Commission's proposals to the General Assembly is not the best idea. At the time the Commissioners are ready to submit their proposals, they probably know more about the topics than anyone else in the General Assembly since they have been working on them for so long. The Commission should present its proposals to the General Assembly in a way that it can explain the importance of each proposal and promote them to the legislature. The Commission should also establish early in the process whether or not it will present its recommendations to the public and in what manner, in order to avoid the creation of partisan conflict by the media before the General Assembly can even consider the proposals.

If the Commissioners approach the revision process with an open mind and do not approach with individual agendas, the revision process is likely to be very successful. The Commission's role is to vet issues and potential changes that should be made to the Constitution. As former Commissioner, Neal Zimmers, explained, these changes should be made based on experience, not special interests.

III. Including Public Input in the Commission Process

According to the former Commissioners, the 1970-1977 Ohio Constitutional Revision Commission seemed to represent the diverse aspects of the public well. The Commissioners were made to feel comfortable and open so they would share their ideas, but remembered to arrive at common sense solutions. Technology has increased significantly since the 1970s Commission and the ability for public participation has increased as well.

The Colloquium Committee members recommended that the Commission should establish education as a goal, both for the Commissioners themselves and the general public who will ultimately vote on some of the Commission's proposals. The Commission should educate the public to understand that the function of the state constitution is different than the function of statutory regulations. Former Commissioner, Mike Oxley, explained that the Commission's success will be determined by whether or not the voters approve the recommendations that are presented for public vote. Therefore, it is important that the public is educated and informed from the very beginning.

The Commission process should be open and honest to increase the public's trust in the Commission's proposals. The more informed the public is about the Commission's process and activities, the less likely external stakeholders will be able to negatively politicize the Commission's work. Former Commissioner, Mike Oxley, also recommended that the Commission have a spokesperson to keep the public informed about the Commission's proceedings. The spokesperson and Commission chair should make the public feel comfortable with the revision process by being a proponent for studying the constitution and necessary changes. To help the public understand the process, it is also a good idea to remind people that the constitution is a living document and must be updated periodically. If the public understands that constitutional revision is not a new process and was done in Ohio in the 1970s and in other states as well, the public will be more supportive of the process and the Commission's ultimate recommendations.

One former legislator on the Colloquium Committee stated that positive results include sound recommendations that are well documented and appropriate for voters to consider. Another Colloquium Committee member recommended that the Commission's work product include the actual language to be included on the ballot should the recommendation go before the public for a vote. The Commission should also provide the opportunity for public comment and be dedicated to a process that is open, thoughtful, and engaged.

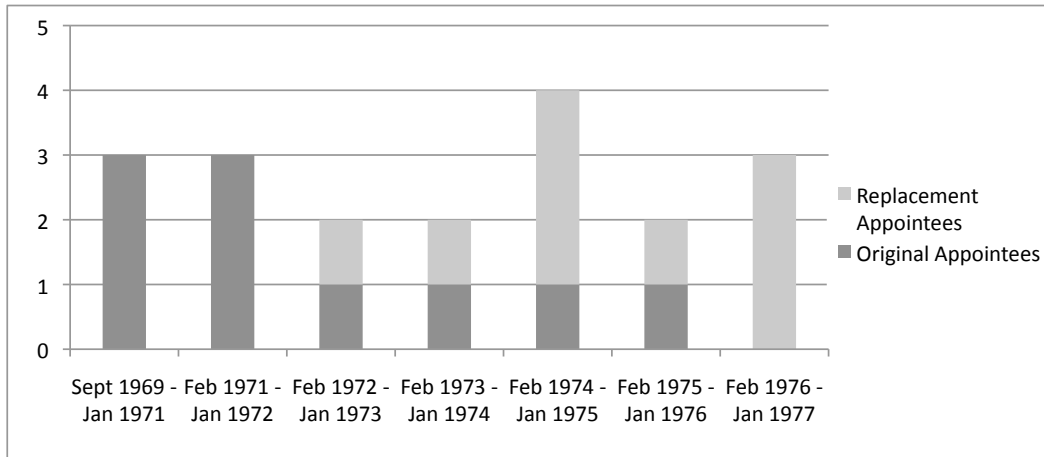
IV. Conclusion

The interviewees seemed to believe that if the Commissioners keep an open mind and never lose sight of the importance of what they are doing, the Commission will be able to achieve its goals. As former Commissioner John McDonald explained, it is most important that all involved are able to listen to each other and not reject ideas and opinions out of hand. It is highly unlikely that the Commissioners will agree on everything; however, it is important to remain open minded to identify and develop common ground.

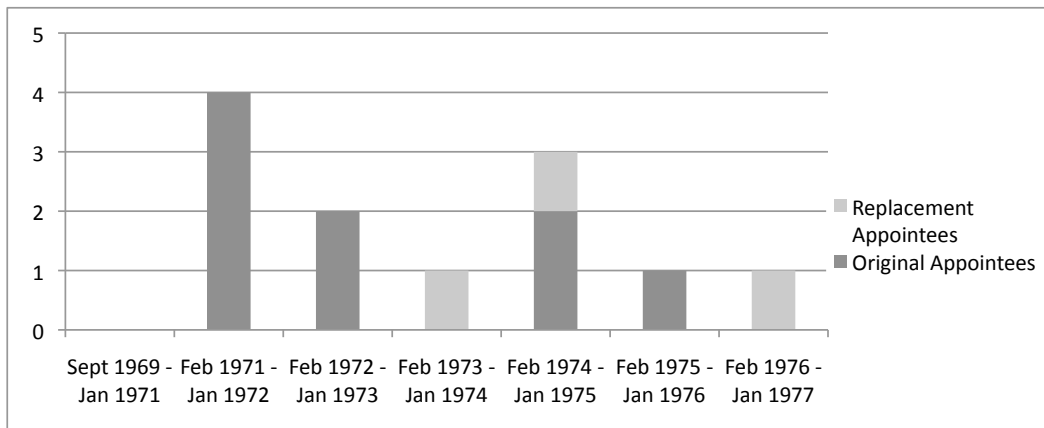
Appendix D

Appointment Turnover on the 1970s Ohio Constitutional Revision Commission

Legislative Appointments Ending Each Year



Public Appointments Ending Each Year



Explanation: The charts generally show that between two and three legislators left the Commission each year, while the turnover for public members was more sporadic.

Each year indicates the total number of commission appointments fully ending during that year. Original Appointees means individuals initially appointed to the Commission. Replacement Appointees were appointed at a later time to replace either Original Appointees or Replacement Appointees that had left the Commission or were not reappointed. For example, between Feb 1975 and Jan 1976, two legislative appointees left the Commission. One had been on the Commission since 1969, while the other had been appointed at a later time. Please note, this data ignores reappointments to the Commission. As an example, an Original Member being reappointed every few years is still considered an Original Appointee in 1976 even though that member was reappointed to the Commission several times. The focus here is on how many members stopped serving on the Commission each year, necessitating appointment of new members.

Appendix E

Planning Committee Members

James A. Brogan (co-chair)

James A. Brogan was born in Chicago and obtained his A.B. degree from Notre Dame University in 1961, and his J.D. from Georgetown University Law Center in 1964. Judge Brogan has served as a judge on the Ohio Second District Court of Appeals since 1980 and has authored more than 2,000 decisions.

Judge Brogan is a Vietnam veteran and retired as a Colonel in the United States Army Reserve. He entered private practice before serving as an assistant county prosecuting attorney in Montgomery County for eleven years. Named Ohio Outstanding Assistant Prosecuting Attorney by his colleagues in 1980, Judge Brogan was elected judge of the Ohio Second District Court of Appeals later that year. He was elected Chief Justice of the Ohio Courts of Appeals Association in 1996 and chaired the Ohio Judicial College in 1998 and 1999.

Judge Brogan has served on the Ohio Supreme Court's Board of Commissioners on Grievances and Discipline, Chairman of the Ohio Judicial College, and is a Past Chief Justice of the Ohio Courts of Appeals Judges Association. Judge Brogan is also a Fellow of the American College of Trial Lawyers and a Fellow of the Ohio and American Bar Foundations. He is the author, with Judge William H. Wolff, Jr. and Shauna K. McSherry, of *Appellate Practice and Procedure in Ohio* (Lexis-Nexis, 2005 Edition). Judge Brogan also serves on the Supreme Court Rules Advisory Committee.

In addition, Judge Brogan has been an instructor at Sinclair Community College for more than 30 years, teaches at the Dayton Police Academy, and currently serves as an adjunct professor for the University of Dayton School of Law. He and his wife, Sheila, have three children.

Jo Ann Davidson

Jo Ann Davidson served as Speaker of the Ohio House of Representatives from January 1995 through December 2000 and was a member of the Legislature for 20 years. Her leadership guided many important legislative initiatives through the Ohio General Assembly including welfare reform, electric deregulation and criminal justice reform.

Prior to 1994, Speaker Davidson worked as Vice President of Special Programs for the Ohio Chamber of Commerce. Speaker Davidson holds honorary Doctor of Law degrees from Ohio University and Capital University, an honorary degree in government leadership from the University of Findlay, and an honorary Doctor of Public Administration degree from The Ohio State University.

She serves on numerous boards and recently formed her own consulting firm, JAD and Associates, which consult in a broad range of services involving public policy development and analysis, strategic planning and political campaigns. Davidson has also formed the Jo Ann Davidson Ohio Leadership Institute. Currently, Davidson is the Chairman of the Ohio Casino Control Commission.

Robert M. Duncan

Robert M. Duncan, of Columbus, is a native of Urbana, Ohio, and was appointed to the OSU Board of Trustees in 1998 and served as chairperson from 2006-07. He is a former Judge of the Franklin County Municipal Court, Justice of the Supreme Court of Ohio, Judge of the United States Court of Appeals for the Armed Forces, and Judge of the United States District Court for the Southern District of Ohio. He is a retired partner of the Jones Day law firm. He also served as vice president, general counsel, and secretary of the board of trustees of The Ohio State University.

Judge Duncan serves on the board of directors of First Federal Savings and Loan Association of Newark and is a member of the Ohio Public Defenders Commission.

He earned both his bachelor of science and juris doctor degrees from The Ohio State University. He is a member of the university's College of Education Hall of Fame and received the honorary degree, Doctor of Laws, from his alma mater in 1979.

He is the recipient of numerous awards including most recently the Democracy in Action Award from the League of Women Voters and the Julian Sinclair Smith – Celebration of Learning Award from the Columbus Metropolitan Library.

Judge Duncan and his wife, Shirley, and two of his grown children live in Columbus. His youngest daughter resides in New York City.

Eric Fingerhut

Eric D. Fingerhut, a nationally recognized leader in education and economic development policy, is the Vice President for Education and STEM Learning at the Battelle Memorial Institute, the largest non-profit research and development organization in the world. Fingerhut previously served as the Chancellor of the Ohio Board of Regents, as an Ohio State Senator and as a member of the United States House of Representatives.

At Battelle, Chancellor Fingerhut leads the organization's efforts to inspire and train the next generation of America's science and technology leaders. Under Chancellor Fingerhut's leadership, Battelle is helping lead the campaign for globally competitive science standards for primary and secondary schools, to increase the number of college students earning STEM degrees, and to support and connect schools and educators who are demonstrating excellence in STEM education.

As Chancellor of the Ohio Board of Regents, the state agency responsible for leading the University System of Ohio, Fingerhut led a system consisting of fourteen universities, twenty three community colleges and dozens of career technical education and adult literacy programs serving over 600,000 students per year. Chancellor Fingerhut was also responsible for the state's broadband, supercomputing and on-line education and library systems, and chaired the Ohio Third Frontier Commission, one of the nation's best funded state efforts to promote innovation and entrepreneurship through research and development partnerships between business and industry. Chancellor Fingerhut's 10-year *Strategic Plan for Higher Education* provided the state with a measurable blueprint to make higher education more efficient while expanding educational opportunities to students, and to reframe the relationship between business and higher education to create new jobs and a highly skilled, globally competitive workforce. When he stepped down from his position, the Columbus Dispatch said that Fingerhut had "shaped and improved Ohio's universities" and "set a high bar for those who will follow him."

In addition to his work at Battelle, Chancellor Fingerhut currently serves as a Senior Advisor to Jobs For the Future, a nonprofit organization operating in 41 states that develops education and workforce strategies for lower skilled children and adults, as a consultant on adult education to the American Council on Education, and as a Distinguished Visiting Professor at Wright State University, as well as serving on numerous advisory boards to nationally recognized education and scientific organizations and businesses.

Chancellor Fingerhut's career in elected office includes ten years in the Ohio Senate and two years in the United States House of Representatives. Chancellor Fingerhut has also served as the Director of Economic Development Education and Entrepreneurship at Baldwin-Wallace College, as a Senior Lecturer in political science, law, and management at Case Western Reserve University, has practiced law privately and as an attorney for the Legal Aid Society of Cleveland, and has worked for non-profit organizations focused on welfare-to-work programming and advocacy on health and human services issues. In 2008, he was the recipient of the "Outstanding Public Service Award" from The Ohio State University John Glenn School of Public Affairs.

Chancellor Fingerhut earned a Bachelor of Science degree with highest honors from Northwestern University in 1981 and received a law degree from the Stanford University School of Law in 1984.

Edward B. Foley

Edward B. Foley, Isadore and Ida Topper Professor of Law, is the Director of Election Law @ Moritz. One of the nation's preeminent experts on election law, Professor Foley teaches and writes in all areas of this field. His current research focuses on improving the processes for resolving disputed elections, and he has been asked to lead a new American Law Institute project on election law. With his Moritz colleague Steve Huefner, he is writing a book on the history of disputed elections in the United States. Based on preliminary research for the book, Foley has recently published several scholarly articles, including *The Founders' Bush v. Gore: The 1792 Election Dispute and Its Continuing Relevance*, 44 *Indiana L. Rev.* 23 (2010), which he delivered at Ohio State on October 14, 2008, as the University Distinguished Lecture. He is similarly completing a series of papers on Minnesota's 2008 U.S. Senate election and its lessons for the future.

Foley also designed a simulated dispute of the 2008 presidential election, which involved a special panel of three nationally prominent retired judges to adjudicate the hypothetical case. In a new essay, *The McCain v. Obama Simulation: A Fair Tribunal for Disputed Presidential Elections*, 13 *NYU J. LEG. & PUB. POL.* 471-509 (2010), he explains how this experiment (including the opinion that the three-judge panel issued) can aid in resolving future disputed elections. Foley's prior writings on *Bush v. Gore*, provisional ballots, the Twelfth Amendment, among other related topics, set the foundation for these current and ongoing projects.

Professor Foley has taught at Ohio State since 1991. Before then, he clerked for Chief Judge Patricia M. Wald of the United States Court of Appeals and Justice Harry Blackmun of the United States Supreme Court. In 1999, he took a leave from the faculty to serve as the State Solicitor in the office of Ohio's Attorney General. In that capacity, he was responsible for the state's appellate and constitutional cases.

Nathaniel R. Jones

Nathaniel Jones, a former judge with the U.S. Court of Appeals for the Sixth Circuit, has substantial experience in litigation, appeals, and dispute resolution. He serves a wide range of clients in matters such as: commercial and general litigation; government contracts; and construction.

On February 20, 2003, in recognition of his outstanding career as a jurist and civil rights leader, Congress passed H.J. Res. 2 naming the Nathaniel R. Jones Federal Building and U.S. Courthouse in Youngstown, Ohio.

Among numerous other honors and awards, Judge Jones received the Annual Fellows Award from the American Bar Association's Young Lawyers Division in 2005, the Award of Excellence from the Thurgood Marshall Scholarship Fund in 2004, the Ohio Bar Medal Award from the Ohio State Bar Association in 2003, and he was inducted into the National Bar Association Hall of Fame in 2002. He was named a "Great Living Cincinnati" in 1997.

He taught trial advocacy at Harvard Law School, and also taught at Case Western Reserve School of Law and Cleveland State University School of Law. He is now an adjunct professor at the University of Cincinnati College of Law. He is the holder of 18 honorary degrees. Judge Jones is listed in both Who's Who in America and Who's Who in Black America.

Judge Jones is a member of more than two dozen civic and community organizations, including the Board of Directors of the Cincinnati Youth Collaborative, the Board of Directors of KnowledgeWorks Foundation, the Board of Trustees of the Legal Aid Society of Greater Cincinnati, the Board of Trustees of the Southern Africa Legal Services Foundation, the Board of Directors of the American Constitution Society, and the Advisory Committee of the Urban Morgan International Human Rights Institute. He serves as a member of the Toyota Motor Manufacturing North America, Inc. Diversity Advisory Board, and is honorary co-chair and board member of the National Underground Railroad Freedom Center.

Chuck Kurfess (co-chair)

Charles Kurfess was elected to the Ohio House of Representatives in 1956 while a student in law school, (then the youngest member of the General Assembly). After serving in the Army Counter Intelligence Corps in the Far East during the Korean Conflict, Kurfess returned to earn his juris doctor degree from Ohio State University. He served 11 consecutive terms representing Wood, Henry and Sandusky counties. He was Speaker of the House from 1967-72, and then Minority leader for six years. He practiced law in Wood County from 1958-91 when he was elected judge of the Court of Common Pleas and served 12 years. In December 2009 the Ohio State Bar Foundation presented him the Honorary Life Fellowship Award for a lifetime of service to the public, and integrity, honor, courtesy and professionalism.

While a leader in the Ohio legislature, Kurfess was active in the national effort to improve the legislatures' role in state government. Involved in the State Legislative Leaders Association, he also served as president of the National Legislative Conference and was a founder of the National Association of State Legislatures. He served on the executive committee of the Council of State Governments and was appointed by Presidents Nixon and Ford to the Advisory Commission on Intergovernmental Relations.

He has served on many business and civic boards, including the board of directors of the BGSU Alumni Association. In 1967 he received the BGSU Distinguished Alumnus Award. He and his wife, the former Helyn Rudolph, a 1953 BGSU alumna, are lifelong members of St. Johns Lutheran Church, Stony Ridge, and members of the BGSU Falcon Cub and Presidents Club. They also are the proud parents of three children and five grandchildren.

Joan W. Lawrence

Joan Lawrence served eight consecutive terms in the Ohio House of Representatives, representing Delaware County, Morrow County, and parts of Richland County. During her tenure, she served on the following House committees: Human Services Subcommittee (chair), Finance and Appropriations, Health, Retirement and Aging, and Energy and Environment.

Lawrence also served on the Joint Select Committee on Federal Funding and the Joint Select Committee on Capital Finance.

As a state representative, Lawrence's interest was in welfare reform, education funding and changes in property-tax structure. In 1996, she introduced a state constitutional amendment dealing with such changes to the tax structure and education funding. After Lawrence left the House of Representatives in 1999, she served as the Director of the Ohio Department of Aging until 2005.

Prior to her service in the Ohio General Assembly, Joan Lawrence was a member of the Big Walnut Board of Education from 1970 to 1973. She received her education from the Long Island College Hospital School of Nursing and became a registered nurse. She has also attended The Ohio State University, Rutgers University, and Douglass College. Joan Lawrence has been active with the League of Women Voters, serving as Ohio president from 1975 to 1977, and the National Women's Political Caucus. She was also active in the Ohio Farm Bureau, the Columbus Metropolitan Club, the Delaware County Republican Central Committee, and the Republican Women's Club.

Cynthia Lazarus

Cynthia Lazarus is the CEO and President of Flying Horse Farms. Prior to joining Flying Horse Farms, she served as CEO and President of YWCA Columbus, the historic institution that serves as a focal point for providing inspiration, education and services designed to eliminate racism and empower women.

Before her service at the Y, she served for ten years as a judge on the Tenth District Court of Appeals and ten years as a member of Columbus City Council. For three of those years, she became only the second woman in the history of the city of Columbus to serve as City Council President.

Cynthia received her B.A. in Philosophy from Bellarmine College and her M.A. in Social Science Administration from the University of Chicago. She received her J.D. from the University of Kentucky.

Harry J. Lehman

Mr. Harry Lehman is a former state legislator and retired partner from Jones Day. Mr. Lehman represented the Shaker Heights area in the General Assembly from 1971-1981 and chaired the House Judiciary Committee from 1975-1981. During that time he won bipartisan praise for his instrumental role in modernizing the civil and criminal justice systems in Ohio. He has also served as a member of the Ohio Elections Commission, a State Bar Examiner, and adjunct professor at Ohio State University. Mr. Lehman previously served as an Appointed Member at School Employees Retirement System of Ohio and as a member of the Ohio Cultural Facilities Commission. Mr. Lehman has a Bachelor of Arts degree from Amherst College and a Juris Doctor degree from Harvard Law School.

Mr. Lehman specialized in business and commercial law, and government affairs (including legislation, administrative law, campaign finance, ethics, and lobbying laws). Mr. Lehman has been admitted to the Ohio bar and all Federal courts, including the United States Supreme Court and the United States Court of Military Appeals.

Mr. Lehman has received numerous distinctions including the Distinguished Service award from the NAACP, the Distinguished Service award from the Ohio Education Association, and the Most Effective Legislator award from the Ohio Legislative Correspondents Association.

Mr. Lehman has published articles on apportionment in Ohio and Ohio's criminal code.

Betty Montgomery

Betty Montgomery was born in Fremont, Ohio and graduated with an English degree from Bowling Green State University in 1970. She received her law degree from the University of Toledo in 1976.

Before law school Montgomery embarked upon a career in public service, becoming a clerk for the Lucas County Common Pleas Court. Once able to practice law, she became an assistant prosecuting attorney in Wood County. In 1978, Montgomery accepted a position as prosecuting attorney of Perrysburg, and in 1981, she became Wood County's prosecuting attorney. In 1988, she won election as a member of the Republican Party to the Ohio State Senate, where she served on numerous committees dealing with legal and environmental issues. Her most notable accomplishment while a senator was sponsoring the bill that created Ohio's Lake Erie license plate. By 2002, sales of the license plate had raised more than 1.5 million dollars to help protect Lake Erie environmentally. Montgomery also proposed Ohio's first victim's rights and living will laws.

In 1990, Montgomery won election as Ohio's attorney general. She became the first woman in Ohio history to hold this office. As attorney general, she was an outspoken supporter of victims' rights and lobbied the state legislature and governor to increase funding to local law enforcement agencies. Montgomery also worked to establish a state DNA database to help catch and convict repeat criminals. She is probably best known for her efforts to protect Ohio consumers from fraudulent businesses. In 2002, Montgomery ran for and won election as Ohio's auditor.

Montgomery has been honored many times for her civic and political achievements, including the Robert E. Hughes Memorial Award, the Black Swamp Humanitarian Award, the Ohio Hospice Senator of the Year, the Medical College of Ohio Distinguished Citizen Award, Government Leaders Against Drunk Driving, WSOS Community Action Committee Certificate of Appreciation, the Wood County Council on Alcoholism and Drug Abuse Distinguished Service Award, the Ohio Prosecuting Attorneys Association Resolution of Honor, and the Wood County School Administrators Outstanding Service Award.

John Ong

John D. Ong was appointed by President George W. Bush as Ambassador Extraordinary and Plenipotentiary of the United States to Kingdom of Norway in 2001. He served in this capacity until November 30, 2005.

Mr. Ong has had a long and distinguished record as a leader in the business community. Presently Chairman Emeritus of the B.F. Goodrich Company, he retired as Chairman of the Board of Directors in 1997 after more than 36 years of service to the company. He held a variety of positions during his tenure at B.F. Goodrich, including Vice-President and President of International B.F. Goodrich and President and Chief Operating Officer. From 1979 until 1996, he served as Chairman and Chief Executive Officer. In 1984, President Reagan appointed Mr. Ong to the President's Commission on Industrial Competitiveness, where he served as Co-Chair of its International Trade Committee.

Mr. Ong has played a leadership role in a number of key organizations involved with education and business. He is a life Trustee of the University of Chicago and is a Trustee of Ohio State University, the Musical Arts Association of Cleveland, Ohio (Cleveland Orchestra), the Fort Ligonier Association and a Trustee Emeritus of Western Reserve Academy in Hudson, Ohio. Mr. Ong is a leading advocate for business involvement in civic and cultural activities, both nationally and in northeast Ohio. He is a former Chairman of the Business Roundtable, the National Alliance of Business, the Business Committee for the Arts, New American Schools, Inc., and the Ohio Business Roundtable. He was a member of The Business Council from 1989 until 2005. He is now a member of the Council of Retired Chief Executives and the Council of American Ambassadors. He has served as a Director of seven S&P 500 companies. Mr. Ong is a recipient of the Humanities Award of Distinction from Ohio State University's College of Humanities, the Alumni Medal from Ohio State University, and honorary doctorates from Ohio State University, Kent State University, the University of Akron and South Dakota State University. He was awarded the Grand Cross of the Royal Norwegian Order of Merit in November 2005.

A native of Ohio, Mr. Ong received both his undergraduate and Master's degrees from Ohio State University and his law degree from Harvard University. Mr. Ong is married to Mary Lee Ong; they have three grown children.

Nancy Rogers

Professor Rogers teaches and writes primarily in the dispute resolution area. Her co-authored treatise on mediation received the CPR legal Program Book Prize in 1989 and her co-authored short text on mediation received the same national prize in 1987. She also has coauthored a leading law school textbook in dispute resolution.

Since joining the Moritz faculty, she has served as Ohio Attorney General, Dean of the Moritz College of Law, Vice Provost for Academic Administration of The Ohio State University, Visiting Professor of Law at Harvard Law School, and Associate Dean for Academic Affairs for the Moritz College. Prior to joining the faculty, she was a law clerk for U.S. District Judge Thomas D. Lambros in Cleveland and practiced in the Glenville-area office of the Cleveland Legal Aid Society.

Professor Rogers was President of the Association of American Law Schools in 2007 and was a member of its Executive Committee for five years. She served for nine years on the Board of Directors of the Legal Services Corporation, a Presidential appointment that requires U.S. Senate confirmation. Professor Rogers had a gubernatorial appointment as one of Ohio's five commissioners on the National Conference of Commissioners of Uniform State Laws for seven years and was Reporter for the Conference's Uniform Mediation Act, now enacted in 11 jurisdictions. She chaired the Judicial Advisory Committee, which reviewed candidates for the U.S. District Court for the Northern District of Ohio for U.S. Senators Brown and Voinovich. She served on the planning committee for the ABA Seminar for New Law Deans for five years, chairing it for two years.

Her awards include: the College of Law Alumni Association's Outstanding Professor Award in 1996, the American Bar Association Section on Dispute Resolution's D'Alemberte-Raven Award in 2002 for outstanding achievements and contributions to the field of dispute resolution, the American Arbitration Association's Whitney North Seymour, Sr. Medal in 1990 for outstanding contributions to the dispute resolution field, the Mortar Board Alumni Achievement Award in 2008, the Ohio State Bar Foundation's Ritter Award in 1998 for outstanding contributions to the administration of justice, the Ohio State Bar Association's Ohio Bar Medal in 2008, the Legal Aid Society of Columbus' Service Recognition in 1996, the Columbus Chapter of the American Constitution Society for Law and Policy's Judge Robert M. Duncan Award for Progressive Public Service in 2010, the Ohio State University Council of Graduate Students' Distinguished Service Award in 2004, the Columbus YWCA Women of Achievement Award in 2008, and the Columbus Bar Foundation's President's Award in 2008.

Ben Rose

Ben Rose has been Chair of the Ohio Ethics Commission since January 2009. He was first appointed to the Commission in 2006.

Ben is a graduate of Lima Senior High School, Princeton University, and the Ohio State College of Law. At Princeton he majored in the Woodrow Wilson School of Public and International Affairs.

Between college and law school Ben served as a Regular Navy officer, first on an Atlantic Fleet destroyer and then in Vietnam where he led a river patrol unit which also served as a boat support unit for Navy SEAL Team One and Marine reconnaissance units. For this service Ben was awarded the Bronze Star with Combat V. In the summer of 1968 between his junior and senior years in law school Ben served as the riverine desk officer on the staff of the Chief of Naval Operations in the Pentagon.

Ben began his legal career as a Lima City Prosecutor and in private law practice. From 1973 through 1986 he served as Allen County's State Representative. His legislative service included a stint on the Ohio House Education Committee, serving as Ranking Minority Member on the House Finance/Appropriations Committee, serving as Ranking Minority Member of the House Ethics and Standards Committee, and serving as Ohio House Assistant Minority Leader. As a legislator he specialized in state budget issues, school finance, and ethics law. In 1986, he ran unsuccessfully for State Auditor against Tom Ferguson, the incumbent Democrat.

From 1990 to 1993 Ben served as Principal Deputy Assistant Secretary of the Navy for Installations and Environment.

After the elder President Bush left office, Ben returned to Ohio and served as Assistant Director of the Ohio Department of Health and Executive Secretary of the Ohio Industrial Commission.

Since 1998, Ben has engaged in a limited law practice and has provided volunteer pro bono legal services to the Ohio-West Virginia YMCA and the Lima City School District. Throughout his career Ben and his wife Nancy have been active volunteers in numerous youth programs.

Ben also serves as an on-air political analyst for WIMA Radio in Lima.

Richard B. Sapphire

Professor Richard Sapphire graduated from Ohio State University in 1967, and began law school there that same year. After his first year of law school, he transferred to, and then graduated in 1971 from, Chase Law School in Cincinnati (now, Northern Kentucky State University). He immediately went to work as a staff attorney for the Legal Aid Society of Cincinnati. After five years, he left to return to school for a masters of law degree (LL.M.) at Harvard Law School, and then began teaching, first in Oklahoma, and since 1976 at UDSL. He has also been a visiting professor at the University of San Diego (twice) and at Northern Kentucky State. Professor Sapphire currently teaches at the University of Dayton School of Law.

In addition to the basic courses and a seminar in constitutional law and professional responsibility, Professor Sapphire has taught civil rights, federal jurisdiction, and seminars in law and religion and constitutional theory, as well as courses on Homelessness and the Law, Capital Punishment and Same-Sex Marriage, and Religion and the Professional Life of a Lawyer. In recent years, he has been teaching Capstone Courses in Civil Liberties Litigation and Complex Civil Litigation, as well as a course in Comparative Human Rights law at UDSL and in Sorrento, Italy.

Professor Sapphire has written over 35 scholarly articles and several book chapters in the areas (among others) of constitutional law, civil rights, federal jurisdiction, judicial administration, and law and religion. Professor Sapphire has been engaged on an ongoing basis in a variety of litigation and advocacy roles. For over 25 years, he has been a cooperating lawyer (pro bono) with the American Civil Liberties Union (ACLU), and now serves as a member of the Board of Directors of the ACLU of Ohio. He has been lead and co-counsel in a wide range of cases at all levels of the state and federal court systems. In recent years, he has been a member of a team of lawyers that has litigated several voting rights cases in the federal and Ohio courts. He has been trial attorney and attorney for amicus in federal and state courts in Dayton and elsewhere, and has been appellate counsel in the United States Supreme Court (as amicus), the United States Court of Appeals for the Sixth Circuit (direct and amicus), U.S. District Court, the Ohio courts of appeals, and the Supreme Court of Ohio.

Professor Sapphire has also been active in a number of community groups, including service for 20 years as a member of the Board of Directors (and immediate past President) of Homefull, Inc., a Dayton, Ohio area, full service agency that deals with homelessness. He served as an academic advisor to the Task Force on Access and Quality of the Ohio Courts Future Commission, organized under the auspices of the Ohio Supreme Court. He is currently a member of the Dayton and American Bar Associations, and serves on the Dayton Bar Association's Federal Practice Committee.

Professor Sapphire has been married for 40 years to Patricia. They have two sons: Daniel, who works in Washington, D.C. on the staff of Senator Diane Feinstein (D. Cal.), and Douglas, who is an attorney and currently the Assistant Director of Career Services at Boston University School of Law.

Zack Space

Zack Space was born in Dover, Tuscarawas County, Ohio. Mr. Space graduated from Dover High School and received his B.A. from Kenyon College in 1983. Mr. Space received his J.D. from The Ohio State University in 1986.

Mr. Space was a private practitioner in Dover, Ohio, as a city attorney from 2000-2006. Mr. Space is a former legislative representative of Tuscarawas County and was elected as a Democrat to the One Hundred Tenth and One Hundred Eleventh Congress (January 3, 2007-January 3, 2011). Mr. Space was an unsuccessful candidate for reelection to the One Hundred Twelfth Congress in 2010.

Mr. Space is a former member of the Tuscarawas County MRDD Board and served as Special Counsel to Ohio Attorneys General Anthony Celebrezze, Jr., and Lee Fisher.

Mr. Space is now working as a Principal with Vorys Advisors, LLC as part of a bi-partisan team that assists companies that are working with state, local and federal government.

Steven H. Steinglass

Steven H. Steinglass is a graduate of the Wharton School of the University of Pennsylvania and the Columbia University School of Law.

Following law school, Professor Steinglass practiced law in Wisconsin. He joined the faculty of Cleveland State University's Cleveland-Marshall College of Law in 1980, and his current areas of teaching include Civil Procedure, Federal Courts, Section 1983 (Civil Rights) Litigation, and Ohio Constitutional History. Professor Steinglass writes and teaches in the area of state constitutional law.

He is the author of *The Ohio Constitution: A Reference Guide* (with Gino J. Scarselli) (2004) and *Section 1983 Litigation in State Courts*. He is a frequent lecturer at continuing legal and education programs on state court litigation and on the Ohio Constitution, and he has argued two cases before the United States Supreme Court. Professor Steinglass served as Dean of the Cleveland-Marshall College of Law of Cleveland State University from 1996 to 2005; on July 1, 2005, he returned to the faculty and was appointed Dean Emeritus by the Cleveland State University Board of Trustees.

During the fall 2011 semester, Professor Steinglass was a Distinguished Visiting Professor of Law at Widener University School of Law (Delaware); in the spring 2012 semester, he is a visiting professor at Case Western Reserve University School of Law, where his teaching responsibilities include Ohio Constitutional History.

Bob Taft

Bob Taft began his career in public service as a Peace Corps Volunteer, working as a schoolteacher in Tanzania, East Africa right after graduating from college. He went on to get a masters degree in government from Princeton and a law degree from the University of Cincinnati.

His first job in government was with the Bureau of the Budget in the State of Illinois. He has served as an elected official in Ohio for 30 years, as a member of the state legislature, a county commissioner, Ohio Secretary of State and, most recently, as Governor of Ohio.

In his role as Governor, he focused on improving schools, reforming Ohio's tax system, attracting advanced, high paying jobs and helping communities clean up polluted properties and provide better recreational opportunities for their citizens.

Former Governor Taft is currently a Distinguished Research Associate with the University of Dayton, lecturing in a number of courses, leading a political science course on the U.S. Congress and working with the School of Education on special projects.

William K. Weisenberg

William K. Weisenberg is Assistant Executive Director for Public Affairs, Governmental Relations and Diversity Initiatives for the Ohio State Bar Association, having begun his service to the OSBA in 1979. He is a graduate of Syracuse University (1966) and New York Law School (1969). He is admitted both to the New York and Ohio bars.

He serves as counsel to the OSBA Commission on Judicial Candidates and the Judicial Election Campaign Advertising Monitoring Committee.

Prior to joining the Ohio State Bar Association staff, he served as chief counsel to the Ohio House of Representatives Judiciary Committee.

From 1990 to 1997, Mr. Weisenberg served on the Ohio Commission on Dispute Resolution and Conflict Management as an appointee of the Chief Justice of the Ohio Supreme Court and from 1993 to 1997 he served on the American Bar Association Special Committee on Funding the Justice System. He currently serves as chair of the American Bar Association Standing Committee on Judicial Independence and co-chair of the National Center for State Courts National Ad Hoc Advisory Committee on Judicial Campaign Oversight.

He is a member of the Ohio State Bar Association, American Bar Association, and Columbus Bar Association. He is a Life Fellow of the Ohio State Bar Foundation and a fellow of the Columbus Bar Foundation and American Bar Foundation. He currently serves as a mentor in The Ohio State University Moritz College of Law Mentoring Program. He is a member of the National Association of Bar Executives (NABE) and a former chairman of its Governmental Relations Section. He currently serves as the NABE Delegate to the ABA House of Delegates.

Among the acknowledgements for service to the profession and public, he received the Ohio Legal Assistance Foundation Presidential Award in 1997 for his efforts in improving access to justice for Ohio's poor, the 1998 Ohio Lobbying Association President's Award, the 2000 Ohio State Bar Foundation Award for Outstanding Research or Service in Law or Government and the 2011 Ohio State Bar Medal, the highest honor given by the Ohio State Bar Association.

Mr. Weisenberg is married, the father of two daughters and proud grandfather to a grandson.