

Memorandum

To: Honorable William G. Batchelder and Honorable Charleta B. Tavares.
Co-Chairs, Ohio Constitutional Modernization Commission

From: Commissioner Richard B. Saphire, Chair, Bill of Rights and Voting Rights Committee

Re: Report of the July 10, 2014 Committee Meeting

Date: July 13, 2014

On July 10, 2014, the Bill of Rights and Voting Rights Committee met, a quorum being present.

The Committee deferred to its next meeting further consideration of Article I, Section 4, of the Ohio Constitution pertaining to the "Right to Bear Arms." (At its May meeting, the Committee had voted to recommend retention of this provision in its current form.) The Committee expressed its appreciation to Chris Smith for preparing a detailed comparative analysis of similar provisions from other states' Constitutions.

The Committee considered Article V, Section 2 of the Ohio Constitution, pertaining to the requirement that elections be held by ballot. At its May meeting, the Committee voted to recommend that this provision be retained in its current form. After brief discussion, the Committee once again voted to retain this provision in its current form, and to forward this recommendation to the Commission.

The Committee next considered Article V, Section 2a of the Ohio Constitution, pertaining to the "Names of Candidates on the Ballot." At its May meeting, the Committee voted to recommend the retention of this provision in its current form. After brief discussion, the Committee again voted to retain this provision in its current form, and to forward this recommendation to the Commission.

The Committee next considered Article V, Section 7 of the Ohio Constitution, pertaining to "Primary Elections." With respect to this provision, the Committee took the following action:

- The Committee voted to delete the following language from the first sentence of this Provision: "*and provision shall be made by law for a preferential vote for the United States Senator,*". The Committee concluded that this language was rendered superfluous by the adoption of the Seventeenth Amendment of the United States Constitution, after which United States Senators were chosen by direct election of the people of Ohio.
- The Committee considered the question whether the first sentence of the provision should be amended to include nominations to *federal* office among the nominations that "shall be made by direct primary or elections or by petition as provided by law." Members of the Committee could see no apparent reason for not recommending such

an amendment, but took no vote on this issue. This matter will be referred to the Commission's counsel for further research and consideration.

- The Committee next resumed discussion from its May meeting of the provision's requirement that all nominations for elective state, district, county and municipal offices "shall be made at direct primary elections or by petition as provided by law...." In light of relevant court decisions, the Committee believed that further study was necessary to determine the proper meaning of the requirement that certain nominations for elective office be made by primary and others through "petition as provided by law." The Committee decided to refer this matter to the Commission's counsel for further research and consideration.
- Finally, the Committee considered the last two sentences in Article V, Section 7, pertaining to the selection of delegates to national political conventions. While Committee members expressed no concerns with respect to the substance of these sentences, there was discussion about whether the use of the male pronoun ("his") in the last sentence to describe the delegate to which the sentence refers was appropriate, and whether the sentence could be modified to delete that use. The Chair agreed to inquire whether the Commission had already undertaken a process to address the Constitution's use of gendered pronouns.

The Committee next turned to Article V, Section 4, which pertains to "Exclusion From the Franchise." After brief discussion, the Committee voted to retain this provision in its current form and place it on the agenda of the next meeting for a second consideration.

The Committee next considered Article V, Section 6, pertaining to "Idiots or Insane Persons." A number of Committee members expressed reservations concerning the use of the term "Idiots" in this provision. It was agreed that this provision should be referred to the Commission's counsel for research and consideration.

Finally, the Committee then noted that, per agreement with the Chair of the Legislative Branch and Executive Branch Committee, the Chair had agreed to cede responsibility for Article V, Section 9 to that Committee. It is also noted that responsibility for Article V, Section 8 has been ceded to that Committee.

The Committee agreed that it would not meet in August.