

Memorandum

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

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

Re: Report of the June 12, 2014 Committee Meeting

Date: June 13, 2014

On June 12, 2014, the Bill of Rights and Voting Rights Committee met, a quorum being present.

The Committee voted to retain Article I, Section 3 of the Ohio Constitution, pertaining to the Right to Assemble and Petition, in its current form, with no changes. Since this was the second time that retention of this provision has been agreed to by the Committee, the Committee's recommendation will be forwarded to the full Commission.

The Committee next considered 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. After considerable discussion, the Committee agreed that it might benefit from a detailed comparative analysis of similar provisions from other states' Constitutions, and therefore decided to postpone further consideration of this provision for a later time. The Committee will seek to obtain further legal research into this matter.

The Committee next considered Article V, Section 2 of the Ohio Constitution, pertaining to the requirement that elections be held by ballot. The Committee discussed the question whether and how this provision might apply to current or future efforts by the State of Ohio to conduct elections through electronic means. Based upon its research of this provision, the Committee agreed that this provision has been, and would most likely continue to be, interpreted by the courts as sufficiently flexible so as to give election officials and the General Assembly the flexibility they might require to administer future elections. Accordingly, the Committee voted to recommend that this provision be retained in its current form. Pursuant to the process previously approved by the Committee, this provision will be considered again at its July meeting.

The Committee also considered Article V, Section 8, which at its last meeting the Committee voted to retain in its current form. After considerable discussion, the Committee agreed to postpone further consideration of this provision until a later time.

Next, the Committee considered Article V, Section 2a of the Ohio Constitution, pertaining to the Names of Candidates on the Ballot. After discussion, the Committee voted to recommend the retention of this provision in its current form. This provision will be considered for a second time at the Committee's July meeting.

Finally, the Committee began its consideration of Article V, Section 7. The Committee discussed recent court decisions interpreting the provision's requirement that "[a]ll nominations for elective state, district, county and municipal offices shall be made at direct primary elections or by petition as provided by law...." First, the Committee discussed whether the provision should be changed so that it explicitly applied to "federal" as well as state offices. Second, the Committee discussed whether the second major clause of the provision, pertaining to "a preferential vote for United States senator" was obsolete and should therefore be deleted. And finally, 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 agreed that the Chair should contact the Ohio Secretary of State's and Attorney General's offices, as well as others, to solicit additional views on these questions.