



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### REVISED MINUTES OF THE CONSTITUTIONAL REVISION AND UPDATING COMMITTEE

FOR THE MEETING HELD  
THURSDAY, OCTOBER 10, 2013

#### **Call to Order:**

Chair Dennis Mulvihill called the meeting of the Constitutional Revision and Updating Committee to order at 9:02 a.m.

#### **Members Present:**

A quorum was present with Chair Mulvihill, Vice-chair Kurfess, and committee members Asher, Cafaro, Murray, and Obhof in attendance.

#### **Approval of Minutes:**

The minutes of the September 12, 2013 meeting of the committee were reviewed and approved.

#### **Presentations and Discussion:**

Chair Mulvihill recognized Attorney Donald J. McTigue of McTigue & McGinnis, LLC. Mr. McTigue focused on four themes: legislative burdens placed on the initiative and referendum process, improving constitutional language to forestall legislative burdens, correcting unintended consequences from a 2008 constitutional amendment, and clarifying certain existing initiative and referendum requirements.

Mr. McTigue stated that the General Assembly had placed, "undue burdens on the exercise of the rights of citizen initiative and referendum." Mr. McTigue argued that the attorney general's certification process for the referendum is burdensome to the citizen's ability to collect petitions in a short amount of time. He also argued against the Form 15 requirements, the electronic copy requirement, numbering requirements, the index requirement, and various other requirements enacted by the General Assembly through Senate Bill 47 in the 130<sup>th</sup> General Assembly. Mr. McTigue asserted there were many unintended consequences from 2008's amendments related

to timeframes and deadlines, as well as to the jurisdiction of the Ohio Supreme Court and the overlap of petition challenge periods.

Mr. McTigue emphasized that Ohio citizens consistently choose constitutional amendments over initiated statutes. He spoke to the legislature's ability to change a law and nullify any petition a citizen's initiated statute proposed. Mr. McTigue stated that improvements could be made by increasing petition timeframes, adding more than one amendment or law on a petition, clarifying legislative definitions, and other technical clarifications. Mr. McTigue said the General Assembly should "facilitate and not restrict" a citizen's right to exercise the initiative and referendum.

Representative Dennis Murray asked Mr. McTigue about legal precedent challenging restrictions on the right to use the initiative and referendum process. Mr. McTigue replied that there is not much case law on that topic.

Chair Mulvihill and Mr. Kurfess wondered about the cost of these processes. Mr. McTigue replied that the cost is in the millions of dollars.

Both committee member Herb Asher and Rep. Murray requested that Mr. McTigue provide redline copies of suggested changes, which he agreed to do.

Mr. Asher asked whether Mr. McTigue advocates a revision that would prohibit the legislature from altering the initiated statute process. Mr. McTigue agreed.

Chair Mulvihill recognized Scott J. Tillman, national field director for Citizens in Charge, described as a national advocacy organization for the protection and expansion of state initiative and referendum processes.

Mr. Tillman focused on Ohio's initiative and referendum processes, covering four areas: initiated statutes versus amendments, other state examples, First Amendment concerns, and Ohio's referendum process.

The committee asked Mr. Tillman numerous questions regarding the referendum and initiative process that were answered by Mr. Tillman.

Chair Mulvihill suggested that Senator Bill Seitz could be asked to present to the committee, and committee members agreed. Senior Policy Advisor Steven H. Steinglass was tapped to help facilitate that request.

### **Adjournment:**

With no further business to come before the committee, the meeting adjourned at 10:15 a.m.

**Approval:**

The minutes of the October 10, 2013 meeting of the Constitutional Revision and Updating Committee were approved at the November 14, 2013 meeting of the committee.

/s/ Dennis P. Mulvihill  
Dennis P. Mulvihill, Chair

/s/ Charles F. Kurfess  
Charles F. Kurfess, Vice-chair