



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES OF THE CONSTITUTIONAL REVISIONS AND UPDATING COMMITTEE

FOR THE MEETING HELD  
THURSDAY, OCTOBER 9, 2014

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

Chair Mulvihill called the meeting of the Constitutional Revisions and Updating Committee to order at 1:10 p.m.

#### **Members Present:**

A quorum was present with committee members Mulvihill, Kurfess, Asher, Batchelder, Curtin, Jacobson, Obhof, and Sawyer in attendance.

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

The committee approved the minutes of the July 10, 2014 meeting.

#### **Topics Discussed:**

Chairman Mulvihill began the meeting by explaining there has been some concern expressed that the Ohio Constitution is being cluttered with things that more appropriately belong in statutes. Don McTigue and Maurice Thompson were invited to today's meeting to discuss proposals for changing the constitutional provisions relating to citizen initiative and referenda processes.

Both speakers responded to the following questions presented to them by the committee prior to the meeting:

- (1) Should the constitution be amended to increase the percentage of affirmative votes required to approve constitutional amendments proposed by initiative or by the General Assembly? Should the same percentage be required for both?
- (2) Should the constitution be amended to strengthen the direct statutory initiative by prohibiting the General Assembly from repealing or amending a statute adopted by initiative during the five year period after its adoption other than by a two-thirds vote?

(3) Should the constitution be amended to alter the timetable for presenting amendments to the voters in such a way as to permit the General Assembly to propose an alternative amendment to an amendment that is being proposed to the voters by initiative?

(4) Should the constitution be amended to undo some of the impediments the GA has placed on the initiative and referenda processes over the years?

(5) Anything else we ought to be considering as we evaluate the constitutional side of the initiative and referenda processes?

Mr. McTigue presented first. He commented that he has clients who want to seek constitutional amendments rather than statutory enactments because they have a loose coalition that will fall apart if it takes too long to get a provision enacted. One committee member commented that the Ohio Constitution is a foundational document that ideally should not be amended by groups lacking the long-term commitment to whatever issue is sought to be put in the constitution. If a coalition cannot stay together, isn't that a sign that a provision doesn't belong in the constitution? McTigue replied that it is hard to sustain an effort over a longer period.

Another committee member asked about the potential for legal action if the constitution is changed so that the General Assembly is required to wait five to ten years before it can revise legislation that is enacted through statutory initiative. Mr. McTigue said that although a period of repose is a good idea, it may create litigation. Another committee member asked if the period of repose interferes with the legislative prerogative.

Mr. Thompson then discussed possible modifications to Article II, section 1b of the Ohio Constitution to make the initiated statute process easier for citizens and planned to submit these modifications to the committee in writing at a later time. He said that the initiative and referendum procedure is a product of the Progressive Movement. Mr. Thompson said he favors it because it serves to limit government by creating a fourth branch: the people. This makes average citizens "civic adults." It is a more direct form of government/democracy that rejects paternalism and the view that voters can't do something for themselves because they will make mistakes. Mr. Thompson indicated that there is no need for a strong gatekeeper for this process because voters actually turn down a majority of initiated amendments. He favors placing constitutional amendment initiatives on the ballot in November only, so that the maximum number of voters will weigh in.

#### **Adjournment:**

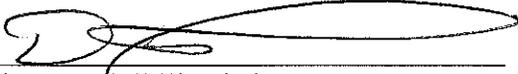
With no further business, the committee adjourned at 2:30 p.m.

#### **Attachments:**

- Notice
- Agenda
- Roll call sheet
- McTigue remarks
- Thompson remarks

**Approval:**

The minutes of the October 9, 2014 meeting of the Constitutional Revisions and Updating Committee were approved at the December 11, 2014 meeting of the committee.



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Dennis P. Mulvihill, Chair

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Charles F. Kurfess, Vice Chair