



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

REVISED MINUTES OF THE CONSTITUTIONAL REVISION AND UPDATING COMMITTEE

FOR THE MEETING HELD
THURSDAY, AUGUST 8, 2013

Call to Order:

Chair Dennis Mulvihill called the meeting of the Constitutional Revision and Updating Committee to order at 9:11 a.m.

Members Present:

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

Approval of Minutes:

The minutes of the July 10, 2013 meeting of the committee were reviewed and approved.

Presentations and Discussion:

Chair Mulvihill began the committee by thanking committee member Roger Beckett and his interns for the analysis provided to the committee.

Chair Mulvihill recognized Senior Policy Advisor Steven H. Steinglass, who presented a brief overview of the referendum, initiated constitutional amendment, and initiated statute processes in Ohio as compared to other states.

The committee asked questions regarding the referendum and initiative process. A question was posed as to whether the committee members had the sense that, while the use of ballot initiative is low, the threatened use thereof is higher. The 2010 Humane Society ballot initiative and subsequent compromise that resulted was cited as an example of a credible threat.

Chair Mulvihill raised the issue of whether the committee should curtail the people's ability to initiate statutes or referenda, calling upon the committee to consider whether the initiative and

referendum power is good or bad, and whether it achieves the intended goal of facilitating democracy.

Mr. Steinglass pointed out that statutes adopted by the General Assembly in response to the statutory initiative often do not indicate their origin, and that the Legislative Service Commission does not appear to have this information. Thus, he said it is hard for the public to gauge the efficiency of the statutory initiative.

Mr. Steinglass discussed some of the competing theories for creating a more robust citizen initiative process for statutes, which could include a method of bypassing the legislature altogether, thus removing some of the incentives to initiate amendments.

Chair Mulvihill asked whether there are any procedural limitations on the legislature that would prevent the General Assembly from simply repealing a citizen-initiated statute. Mr. Steinglass said there are currently none, but that possible procedures could include the imposing a ten-year limitation, requiring a super-majority vote in the legislature to repeal, and the built-in protections that the electorate holds in the re-election of their representatives.

The committee discussed whether there were possible limitations on what is appropriate for constitutional amendments versus statutes. The question was asked whether there were ways to prevent non-constitutional issues from being initiated. Possibilities were suggested, including a review process by the General Assembly or by a court. The 2009 Casino Initiative was cited as an example of a constitutional amendment that was proper under the constitution even though it would have been more appropriate as a statute.

Another issue raised was how to protect the rights of the people from wealthy special interests, such as out-of-state organizations that funnel money into Ohio, from pushing initiatives. A possible approach would be to include limitations on the items or topics that can be proposed by initiative amendments. An example cited is Article II, Section 1e, which restricts the use of the initiative and referendum from being used to pass a law authorizing items relating to taxes.

Committee members discussed signature requirements for ballot initiatives. Currently, Ohio law requires ten percent of the number of votes cast in the last gubernatorial election. Mr. Kurfess urged the committee to review the appropriate methods of signature collection, geographic collection restrictions by county, and the preclusion of payment for signature collection.

Mr. Steinglass said once on the ballot, a constitutional amendment must pass by a majority of the votes cast on the amendment. Some states require a super majority, and Ohio is one of only two states with no time limit on the circulation period.

Upon Chair Mulvihill's request, recommendations were made for the following organizations to attend the October hearing: the League of Women Voters, the organizations behind three major initiatives in recent years, and the lawyers involved in the initiative process, healthcare, casinos, and Issue 2 (repeal of Senate Bill 5 from the 129th General Assembly). Other suggested organizations included We Are Ohio, the Ohio Round Table, and both sides involved in the casino initiative.

Adjournment:

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

Approval:

The minutes of the August 8, 2013 meeting of the Constitutional Revision and Updating Committee were approved at the September 12, 2013 meeting of the committee.

/s/ Dennis P. Mulvihill

Dennis P. Mulvihill, Chair

/s/ Charles F. Kurfess

Charles F. Kurfess, Vice-chair