



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE COORDINATING COMMITTEE

FOR THE MEETING HELD
THURSDAY, DECEMBER 15, 2016

Call to Order:

Chair Kathleen Trafford called the meeting of the Coordinating Committee to order at 12:23 p.m.

Members Present:

A quorum was present with Chair Trafford, Vice-chair Davidson, and committee members Fischer and Mulvihill in attendance.

Approval of Minutes:

The minutes of the October 13, 2016 meeting of the committee were approved.

Reports and Recommendations:

Article VI, Section 5 (Loans for Higher Education)

Chair Trafford recognized Shari L. O'Neill, counsel to the Commission, for the purposes of presenting two reports and recommendations that were issued by the Education, Public Institutions, and Local Government Committee.

Describing the report and recommendation for Article VI, Section 5 (Loans for Higher Education), Ms. O'Neill said the report expresses the committee's conclusion that Article VI, Section 5 should be retained because it articulates a policy encouraging financial support for state residents wishing to pursue higher education, specifically declaring that the public interest supports state guarantees for the repayment of student loans.

Ms. O'Neill continued that the report describes the history of the section as being adopted by voters in May 1965 as a way of increasing opportunities for state residents to pursue higher education by guaranteeing higher education loans and allowing laws to be passed to effectuate that purpose. She said the report outlines that the provision was effectuated by statutes that first

created commissions to oversee student loans, but that, by 1995, the changing landscape of the student loan market, including the success of a federal direct-lending program, and the fact that private companies were offering the same service, rendered the commissions obsolete.

Ms. O'Neill said the report explains the committee's view that, despite that Article VI, Section 5 would appear unnecessary to facilitate activities of the Ohio Department of Higher Education in relation to student loans, grants, and scholarships, to accommodate the federal student loan program, or to support private lender activity related to student loans, potential changes to the federal government's student loan programs and policies could render the section useful in the future. She said the committee also was uncertain whether the provision could be necessary to support programs that forgive student loan debt in order to foster the provision of needed services in underserved areas of the state. Thus, she said, the report concludes that the section expresses an important state public policy of encouraging higher education and helping students afford it, and so should be retained in its present form.

Ms. O'Neill having concluded her summary of the report and recommendation, Chair Trafford then asked committee members if there were comments or concerns about the form of the report and recommendation. There being none, Chair Trafford entertained a motion by Vice-chair Jo Ann Davidson to approve the report and recommendation. Upon a second by committee member Dennis Mulvihill, the committee voted unanimously to approve the report and recommendation.

Article VI, Section 6 (Tuition Credits Program)

Chair Trafford then asked Ms. O'Neill to present the report and recommendation for Article VI, Section 6, relating to Ohio's tuition credits program. Stating the report concluded the section should be retained in its current form, Ms. O'Neill described that Section 6 is designed to promote the pursuit of higher education by establishing in the constitution a government-sponsored program to encourage saving for post-secondary education.

Ms. O'Neill summarized the report's description of the history of the section, indicating that, in 1989, the General Assembly enacted statutes that established a college savings program and created the Ohio Tuition Trust Authority (OTTA), an office within the Ohio Board of Regents (now the Department of Higher Education). She said the report describes that voters approved the creation of Section 6 in 1994 as a way to address concerns about the tax exempt status of such savings plans. Ms. O'Neill said the report indicates these concerns were resolved by changes in the federal tax code that confirmed the exempt status of these "529 plans," so named for the Internal Revenue Code section that describes them. Ms. O'Neill said the report outlines a presentation by the director of the OTTA, who described that since their implementation in the early 1990s, 529 plans have grown to represent \$253.2 billion in investments nationwide, with the average account size now hovering at \$20,000. In addition, Ohio plan data indicate that, as of December 2015, over a half million accounts are open, with over \$9 billion in assets.

Ms. O'Neill said the report indicates that, although the need for the provision was resolved by the tax code change, the OTTA director recommended Section 6 be retained because one purpose of the provision is to establish the full faith and credit backing of the state for one of the

savings plans offered by the program. She said the report indicates the committee's conclusion that although no new account holders for that plan have been added since 2003, the fact that some accounts are still active may require the constitutional provision to be retained in its current form. Thus, she said, the report concludes Article VI, Section 6 should be retained.

Chair Trafford thanked Ms. O'Neill for her presentation, and asked for a motion to approve the report and recommendation. Mr. Mulvihill so moved, and committee member Patrick Fischer seconded the motion. The committee voted unanimously to approve the motion.

Article VIII, Sections 2l, 2m, 2n, 2o, 2p, 2q, 2r, 2s (Additional Authorization of Debt Obligations)

Chair Trafford recognized Steven C. Hollon, executive director, for the purpose of presenting the report and recommendation of the Finance, Taxation, and Economic Development Committee regarding Article VIII, Sections 2l through 2s, relating to the authorization of debt obligations.

Mr. Hollon indicated the report and recommendation outlines the committee's decision to retain the sections because, unlike other debt authorization provisions in Article VIII that have been recommended for repeal, Sections 2l through 2s are still in effect, and provide bonding authority for state infrastructure and other projects.

Mr. Hollon indicated the report and recommendation outlines what each section does, briefly noting that the sections authorize debt to fund projects relating to capital improvements, public school and public university facilities, environmental, conservation, preservation, and revitalization projects, research and development, and for veterans of the Persian Gulf, Afghanistan, and Iraq Conflicts. Mr. Hollon described that the report outlines the presentations the committee heard regarding the sections, as well as indicating the committee's discussion and conclusion that the sections, because they are relatively recent and still in use, should be retained in their present form.

Chair Trafford thanked Mr. Hollon for his presentation. She then recognized Mr. Mulvihill, who moved to approve the report and recommendation. The motion was seconded by Ms. Davidson, and the committee voted unanimously to approve the report and recommendation.

2015-2016 Biennial Report:

Mr. Hollon then presented the 2015-2016 Biennial Report of the Commission, explaining that, by statute, the Commission is required to issue a report every two years by which it describes its progress. Mr. Hollon recognized Ms. O'Neill for her work in preparing the report, indicating that the report describes the membership, staff, committees, reports and recommendations, and topics being addressed by the Commission and its committees. He noted some items in the report are tentative, being subject to the progress made at the December 2016 meeting, and that the draft will be revised and finalized at the close of the day's business.

Chair Trafford then entertained a motion by Judge Fischer to approve the report, and Mr. Mulvihill seconded the motion. The committee voted unanimously to approve the 2015-2016 Biennial Report. Chair Trafford complimented staff on the report, saying it was well done.

Old Business:

Chair Trafford then turned the committee's attention to the question of how to approach various constitutional sections containing gender-specific references. She said a decision must be made about whether the Coordinating Committee should retain responsibility for determining how to address gender references in the constitution, or whether the issue should be assigned to the Bill of Rights and Voting Committee based on an offer by the chair of that committee to accept responsibility for the review.

Judge Fischer asked what staff thought about who should address the issue. Mr. Hollon said it would be helpful to keep the issue in the Coordinating Committee, particularly because there may be a reorganization of the committee so that it would include the chairs of all of the subject matter committees.

Ms. Davidson asked whether the issue was simply whether and how to change existing language or whether the issue involved how to prevent gender-specific language from being used in the future. She wondered whether one amendment could resolve both of those concerns.

Mr. Hollon suggested another state may have a provision that could provide a useful model, and that staff would research that question.

Chair Trafford wondered if a constitutional provision might direct the attorney general to address gender references in the constitution.

Mr. Mulvihill suggested that the Constitutional Revision and Updating Committee, of which he is chair, may be assigned responsibility for drafting a provision relating to future gender references in the constitution. He said his committee could do so in the course of reviewing the role and duties of the Ballot Board in approving ballot language.

Judge Fischer moved for the Coordinating Committee to consider the issue of gender references in current constitutional language, and for the committee to assign to the Constitutional Revision and Updating Committee the question of gender references in future constitutional provisions. Ms. Davidson seconded the motion. The committee then voted unanimously in favor of the motion.

Adjournment:

With no further business to come before the committee, the meeting adjourned at 12:46 p.m.

Approval:

The minutes of the December 15, 2016 meeting of the Coordinating Committee were approved at the March 9, 2017 meeting of the committee.

/s/ Kathleen M. Trafford
Kathleen M. Trafford, Chair

/s/ Jo Ann Davidson
Jo Ann Davidson, Vice-chair