



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### REVISED MINUTES OF THE EDUCATION, PUBLIC INSTITUTIONS, AND LOCAL GOVERNMENT COMMITTEE

FOR THE MEETING HELD  
THURSDAY, APRIL 10, 2014

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

Chair Chad Readler called the meeting of the Education, Public Institutions, and Local Government Committee to order at 9:18 a.m.

#### **Members Present:**

A quorum was present with Chair Readler, Vice-chair Gilbert, and committee members Brooks, Coley, Macon, Talley, and Taft in attendance.

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

The minutes of the December 12, 2013, and the March 13, 2014 meetings were reviewed and approved.

#### **Discussion:**

Chair Readler announced that no speakers would be present at the meeting but that there were two documents to discuss. He identified "Document D," originally distributed at the committee's December 2013 meeting, as being redistributed to the committee for reference purposes. He then presented a document that he had prepared laying out the three sections of Article VI that he would like the committee to consider amending. Those sections are Sections 1, 2, and 3. The document provided a preliminary proposal prepared by Chair Readler for the committee to review.

In his proposal, Chair Readler expressed that Article VI, Section 1 could be removed entirely. He added there are duplications and inconsistencies within the sections. He said he also added a proposal to revise Section 1 to express an anti-discrimination policy, noting that the committee had previously discussed doing so.

Vice-chair Ed Gilbert mentioned that, with regard to the proposal to revise Section 1 to add an anti-discrimination statement, that age, disability, and sexual orientation also should be included.

Chair Readler responded by noting that he borrowed the non-discrimination language from the Michigan Constitution and from Title VII that the committee had previously reviewed.<sup>1</sup> He agreed that disability should be added, but that he felt age was already included in statute in the section that determines the age at which children may attend public school. Regarding sexual orientation, Chair Readler said he recognized that it is a topic on the minds of many policymakers and that this is an evolving issue that would require some discussion.

Mr. Gilbert suggested that the committee add his ideas to the initial language so that the topics can be debated thoroughly. He also raised the issue of property taxes being tied to public education funding and said he would like to see that portion removed.

Committee member Paula Brooks responded to Chair Readler's proposal, saying she is not sure why he would want to eliminate Section 1. She asked whether another section in the constitution satisfies the "disposition of lands" statement.

Chair Readler noted was that his intention was to make it clear that the state would use state money to fund public education.

Ms. Brooks pointed out that the language in Section 1 currently is directory language, and that she does not feel that the proposed language mandates that the use of public funds and tax dollars to be expended for the school system.

Chair Readler suggested the committee could add the words "by taxation or otherwise." Ms. Brooks commented that it is important that the recommendation is clear that the school systems will not rely solely on "public funds."

Governor Bob Taft commended Chair Readler's efforts, saying he noticed the emphasis on "public school system of the state." He suggested the committee look into whether that would include funding for scholarships, vouchers, and EdChoice programs. He said he is concerned by any language that would preclude those programs. Gov. Taft said it is a significant policy issue to allow local cities to appoint school board officials, noting that cities across the country have adopted systems that provide for mayoral appointment of school board members. He said he feels that this is an option the committee may want to preserve for Ohio in the future. He referenced Cleveland City Schools as his example.

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<sup>1</sup> Title VII of the federal Civil Rights Act of 1964, described as "An Act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes." Available at: <https://www.eeoc.gov/laws/statutes/titlevii.cfm> (last visited Sept. 16, 2016).

Chair Readler noted his belief that Cleveland voters passed a referendum to authorize the city to appoint those members.

Ms. Brooks commented that it may become appropriate to look at different school boundaries in general. She noted that Maryland has a very good system of county-wide schools and could be a model. She said the committee could at least look at the way the districts are formed.

Committee member Larry Macon noted that the proposal eliminated the phrase “prescribed by law,” suggesting that the committee should insert a statement to guarantee educational equity.

Chair Readler suggested that Professor Charlie Wilson could be invited to return to speak to the committee again on education. He expressed that the General Assembly should have the power to adapt the public school system as needed and that the committee would not want to create a situation where the language can be debated by the courts.

Mr. Macon asked if Chair Readler was suggesting that the committee should not introduce and address the idea of equitability.

Chair Readler replied by noting that the discrimination piece was added to the language, and that the challenge with inserting equitability language is that the committee would have to clarify what kind of guidance to use.

Mr. Macon suggested that once the committee hears from experts that it could make that a consideration in the document.

Senator Bill Coley said he likes the suggested language and agreed with Chair Readler that the committee should leave it up to elected officials to decide what is equitable. He said he is concerned about the last sentence of proposed Section 1 in that it would not allow vouchers to be used for high-performing religious schools. He added that he wants to make sure that the committee does not prescribe things in the constitution that will limit the use of technology or fail to anticipate future changes in the classroom. He said the committee needs to be sure there is flexibility in how schools are funded.

Ms. Brooks said she was particularly struck by the proposal’s elimination of the phrase “thorough and efficient.” She said she is concerned about the educational level of workers, pointing out that international companies are hesitant to invest more in the United States. She said she feels that the committee must work closely with the business community and the schools. She commented that public education is the great equalizer in society and the committee needs to carefully craft this language.

Mr. Gilbert said he does not think anyone would disagree with including the phrase “thorough and efficient” as well as “equitable” education. He said the hard part is finding the definition of that. He wondered why there is not a definition section and added that the committee can use that language if it identifies what is meant by it. Mr. Gilbert noted in both the Michigan and Ohio constitutions, there is no definition section to detail what is really meant by the language.

He added that, in Article VI, Section 2, the word “city” is used, but there is no obvious reason why that word is used instead of “jurisdiction.”

Gov. Taft pointed out that there are a number of school districts that do not include any cities.

Ms. Brooks responded that there is only one city where city boundaries and school boundaries match up in Franklin County.

Mr. Gilbert said that the committee needs some expert advice, agreeing it would be helpful to have Prof. Wilson consider some of these issues. He said that he feels challenged to have the committee work along in this process, suggesting the committee take advantage of the expertise of those who have extensive experience in this field.

Sen. Coley commented that experts should be given parameters. He asked if the committee is comfortable saying that these decisions are up to the legislature and the elected officials to decide. He said that the committee needs to discuss this because he does not want the courts to step in unless conditions are violated. He said he feels that the point of the committee’s activity is to rewrite these sections of the constitution so it is clear that the courts cannot step in unless certain conditions are not met.

Mr. Macon asked what the General Assembly has done in terms of funding. He added that the Supreme Court has determined many times that the way Ohio funds schools is not constitutional.

Sen. Coley answered that the General Assembly has done that and that the committee should not leave ambiguity in the constitution, allowing the courts to decide. He said more money will always be the answer. He said “Let’s put our cards on the table and say here is what we think is the right thing and here is where the courts need to step in.”

Ms. Brooks said she was still struggling with quality and noted that it is the return on investment that the public expects.

Chair Readler said that the product specification should come from General Assembly and that this is a critical threshold issue to discuss. He continued that the details should be left to the General Assembly and the governor, as opposed to the courts.

Mr. Gilbert asked if the funding for local schools included other money besides property taxes. He added that, in his community, he sees these property tax issues all the time and that this seems to be an inefficient and inappropriate way to fund schools.

Chair Readler commented that the question for the committee is what the constitution should say.

Committee member Pierrette Talley said she was struck by Ms. Brook’s concerns around quality and how to measure what the outcome looks like. She said she hears the committee saying that

issue would be best ascribed to the General Assembly. Ms. Talley said she is concerned that the education system would change every time there are new elected officials or a new government, arguing that it should not. She suggested the committee should have some kind of language about how education should be measurable.

Mr. Macon responded that, in light of the discussion, he hopes that the committee can understand its own internal process and the stages it must go through to move whatever recommendation that it is trying to make. He said, at some point, the committee should discuss this.

Chair Readler reminded the committee that the process is that the committee makes recommendations and eventually there will be a vote by the full Commission, then the recommendation goes to the legislature, and then to the ballot.

Gov. Taft said the committee needs to keep in mind that the words “throughout the state” are included. He volunteered to find an expert or authority on the governance of the school board.

Ms. Brooks noted that the major goal is to make sure that Ohio has a competitive workforce, saying the committee needs to hear from individuals in the private sector workforce.

Mr. Macon proposed that the committee give a list of topics it would like Prof. Wilson to address. He then commented on the issue of early education, in terms of detailing age. Mr. Macon said he would like to see some suggested language in that area because the committee had decided it would focus on early education as a committee.

Chair Readler called for other discussion points, and reminded committee members to let the chairs know if there is someone they would like to bring in for a presentation.

**Adjournment:**

With no further business to come before the committee, the meeting adjourned at 10:26 a.m.

**Approval:**

The minutes of the April 10, 2014 meeting of the Education, Public Institutions, and Local Government Committee were approved at the June 12, 2014 meeting of the committee.

/s/ Chad A. Readler  
Chad A. Readler, Chair

Edward L. Gilbert  
Edward L. Gilbert, Vice-chair