



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

MINUTES OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD
THURSDAY, OCTOBER 8, 2015

Call to Order:

Chair Fred Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 12:37 p.m.

Members Present:

A quorum was present with Chair Mills, Vice-chair Brooks, and committee members Asher, Coley, Curtin, Davidson, Manning, Taft, and Tavares in attendance.

Approval of Minutes:

The minutes of the September 10, 2015 meeting of the committee were approved.

Presentations:

SJR 2 – Congressional Redistricting

Senator Frank LaRose
Senate District 27

Senator Tom Sawyer
Senate District 28

Chair Mills welcomed Senator Frank LaRose and Senator Tom Sawyer, who appeared before the committee to introduce and discuss Senate Joint Resolution 2, a resolution they are cosponsoring that proposes to utilize a state commission to draw the lines for United States congressional districts.

Sen. LaRose began by indicating that he and Sen. Sawyer would be presenting as a team. He said that the proposed resolution looks a lot like H.J.R. 12, adopted at the end of the 130th General Assembly and on the ballot in November 2015 as Issue 1. He said that the Arizona case [*Arizona State Legislature v. Arizona Independent Redistricting Comm.*, 576 U.S. ___, 135 S.Ct. 2652 (2015)] had been a concern, but now that the U.S. Supreme Court has resolved that matter by deciding that a state constitutionally could create a commission for drawing congressional district lines, this cleared the way for Ohio to move forward on this issue. Sen. LaRose said he and Sen. Sawyer are trying to get conversation started on this issue, noting that as 2021 approaches, it gets harder to get a consensus for reform. He said while it is still too early for best predictors to tell about the balance of power in 2021, it is timely to address this now.

Sen. LaRose continued that the current “winner-take-all” approach is unsustainable, and is inconsistent with the desire of Ohio voters. He said it is not about what is good for one party or another, because the pendulum swings, but is about what is good for our system. Sen. LaRose observed that competition makes us stronger, a concept that works in politics as well as other venues.

Describing the features of S.J.R. 2, Sen. LaRose said it is modeled off of H.J.R. 12 with some minor differences. He said S.J.R. 2 ensures that the process for General Assembly districts can be applied for congressional districts because it allows for one redistricting commission to draw the lines for both districts. He said that, in conceiving of S.J.R. 2, they recognized it is not good to change maps more than is necessary, and that doing so creates less stability and confusion for voters. He said the resolution contemplates that changes in the map will be an unusual circumstance, recognizing that a temporary or four-year map would be a roll of the dice, and wouldn't be favored. He said, under the plan, if there is no 10-year map, the commission will have failed to do its job because a four-year map is meant to be an emergency scenario. He said the goal was to get away from winner-take-all scenarios. He said their expectation is that a winner will draw a map to his own advantage, so we want to get away from that.

Sen. Sawyer said this issue has become the pressing issue of the decade, and that if we don't reform the redistricting process now, “we won't lose another year, we will lose another decade.” He said previous proposals were overly complicated, and that proponents need to be able to explain this sort of thing in an elevator ride, known as the “30 second explanation.” Sen. Sawyer complimented Sen. LaRose in being able to explain it that way for the Senate, where he got a standing ovation for doing so. Sen. Sawyer said getting the legislation ready to move forward has been a difficult path because first the Arizona case was a concern, and then there was some objection by U.S. House of Representatives Speaker and Ohio Representative John Boehner, who justifiably feared Republican representatives losing their majority in Congress. Sen. Sawyer said now that the Arizona case has been resolved favorably, and Speaker Boehner has decided to resign from Congress, the path has been cleared.

Sen. Sawyer said that, to move forward on congressional redistricting in light of Issue 1, in which the proposal for legislative redistricting is strikingly the same, there is an obvious opportunity here. Sen. Sawyer noted there are some mechanical differences, but they are easily accommodated. Sen. Sawyer also noted that H.J.R. 2, the resolution proposed in the House by Representative Kathleen Clyde and Representative Michael Curtin [in the 131st General

Assembly], followed a similar road map. He said both plans seek the same end. Sen. Sawyer said he would be comfortable using either as the vehicle, but the time is now, emphasizing it is not a matter of losing weeks or months, but a matter of losing years, a decade. He said the current system forces both parties to talk to themselves within themselves, rather than reaching out to each other and building consensus.

The senators having concluded their remarks, Chair Mills then opened up the floor to questions.

Committee member Paula Brooks thanked the senators for their presentation, commenting that today is the “National Day of the Child,” which symbolizes to her the need to act sooner rather than later on this issue. She said the parties may bicker and differ, but we have consensus as is shown here by an outstanding effort by Republicans and Democrats coming together on this issue. She thanked them as a county commissioner who sees these issues get played out in funding decisions. Ms. Brooks said with this approach we will get the best ideas, and competition in the marketplace.

Sen. LaRose thanked Ms. Brooks for her comments, and added that he wanted to thank and recognize Rep. Clyde and Rep. Curtin for their work on this issue. He said they, too, have been passionate, as well as interested civic groups are interested. Sen. LaRose emphasized that it is important not to let another decade go by without fixing the congressional districts.

Governor Bob Taft drew attention to the provision’s requirement that no appointed member of the commission shall be a current member of Congress, a prohibition he said he supports and understands. He asked whether the senators have thought of also prohibiting current members of the Ohio General Assembly from serving on the commission as some of them may be future candidates for Congress. Sen. LaRose directed Gov. Taft to Issue 1, which in fact has that prohibition, saying that what he and Sen. Sawyer conceive is that there would be one unified commission, so if Issue 1 passes, that should take care of that concern.

Senator Charleta Tavares asked about the harmonization of the language in the resolution on the ballot in November, wondering what specifically is different from what’s on the ballot for the legislative districts versus the congressional districts.

Sen. LaRose answered that by the nature of congressional districts the threshold for the numbers of people in the district is very different from legislative districts. But, he said, by the United States Supreme Court Tennant decision [*Tennant v. Jefferson Cty. Comm.*, 567 U.S. ___, 133 S.Ct. 3 (2012)], when there is a legitimate state interest, there can be more variation. He said it is not necessary to have statistically exact districts, which are impossible to achieve anyway. He said the deviation is one part of it, but there are also requirements for interlocking state house and senate districts that aren’t necessary in the congressional version.

Sen. Sawyer then referenced a comparison document from the Legislative Service Commission that indicates the similarities and differences between S.J.R. 2 and H.J.R. 2, and compares them with H.J.R. 12 (Issue 1). He said the document will be an easy way for committee members to compare the proposals. He noted the only real differences arise from the fact that legislative

districts are steady while congressional ones vary from census to census. He said the rules are more or less compatible and adaptable.

Sen. LaRose said he and Sen. Sawyer don't have pride of authorship, and that they would invite comments or suggestions because the resolution could benefit from the collective wisdom of this panel. He invited members of the committee to meet with them to provide assistance because they want to make sure they get it right.

Answering a question from Sen. Tavares about the timing of the General Assembly's action on the resolution, Sen. LaRose said he doesn't see it as possible for the legislature to act before November, but he anticipates an overwhelming victory for Issue 1, so that will lend support to their efforts. He said the election results will allow them to revise this as needed and move it forward.

Chair Mills asked, procedurally, where is the measure in the senate process, specifically, which hearing has the senate committee had. The senators indicated that the resolution has been introduced and not heard yet.

Answering questions about when the resolution might be placed on the ballot, Sen. LaRose stated that their goal is sooner rather than later. He said 2017 would be good, 2016 is also good, and that getting it to voters as soon as possible, particularly with bipartisan support, would set it up for success.

Sen. Sawyer said he is firmly in favor of 2016, noting that 2017 is more problematic due to voter participation. Sen. LaRose added that the earliest it could be on the ballot is November of 2016. Sen. Sawyer commented that they will have the added advantage of having the state legislative redistricting results to go by.

There being no further questions, Chair Mills then recognized Executive Director Steven C. Hollon, who told the committee that staff would be placing the written testimony of the two senators on the website and providing those comments to committee members as an electronic mail attachment.

Public Comment:

Camille Wimbish
Ohio Voter Rights Coalition

Chair Mills then recognized Camille Wimbish, a representative with the Ohio Voter Rights Coalition, who testified in support of Congressional redistricting reform.

Ms. Wimbish said her organization works to make voting easy and convenient in Ohio, and that they regularly hear from community members who don't vote and don't believe that elected officials represent their interests. She said that the perception is that one's vote doesn't count and that the process is rigged against voters. Ms. Wimbish expressed her organization's support for Issue 1, but said a shortcoming is that it doesn't address congressional redistricting. She said

“Ohio voters want competitive elections, and we deserve to have elected officials who are accountable to us.” She thus urged the committee to support efforts to create fair districts and fair elections for both state and federal legislatures.

Ms. Wimbish then invited questions from the committee.

Senator Bill Coley commented that despite efforts to make it easier to vote, voter participation keeps dropping. He said he appreciates her frustration about voter participation, but asked what should be the response to someone who says we should wait to address congressional districts until we see how legislative redistricting plays out, because once you change it you can't go back.

Ms. Wimbish answered that given the overwhelming support for the state redistricting measure, they are hearing from voters that this is what they want, and anyone can look at the map and see this. She said the message is full steam ahead and do it now.

Sen. Tavares asked Ms. Wimbish what her opinion is about the ease of voting, understanding of what the voting rules are today versus last year, such as when someone can vote or when they can't, wondering if that has had an impact on elections. Ms. Wimbish said her organization has heard many young voters or first time voters who have said they weren't smart enough, or don't have enough information to vote. She said every election the rules change for when early voting occurs, and this confuses the voters who don't pay close attention to that sort of thing. She said she hopes passing Issue 1 will give people more faith in the system.

Sen. Tavares said the low voter turnout at a primary indicates there needs to be more voter education, wondering what Ms. Wimbish believes is the model for education. Ms. Wimbish said education is not a priority, and that we could use greater effort in this regard.

Anne Henkener
League of Women Voters

Chair Mills then recognized Anne Henkener of the League of Women Voters, who appeared before the committee to reiterate some of the same comments she provided to the committee in June on the subject of congressional redistricting. Ms. Henkener thanked Sen. LaRose and Sen. Sawyer, and Rep. Curtin and Rep. Clyde in moving the process along, saying it has been “pretty amazing” that Issue 1 has had wide bipartisan support. Ms. Henkener said she does not remember anything that has received that much broad-based support, and that this is a good bipartisan effort. She noted that, as Ohio State University Professor Emeritus Richard Gunther has told her, electoral proportionality is greater with congressional districts. She said the partisan votes don't match the seats. Ms. Henkener said, “we have opportunities with both the joint resolutions, so we have good structure we can agree on and can do it fairly quickly. She said acting soon is important because voters are getting educated about this topic from Issue 1. She said she would hope the Commission would take due regard of the interest of the voters. Ms. Henkener thus concluded her remarks.

Chair Mills then asked staff to prepare a draft of a recommendation regarding congressional redistricting.

Committee Discussion:

Chair Mills noted that the committee had been given a memorandum (provided on a previous occasion) by Senior Policy Advisor Steven H. Steinglass that outlined the other provisions assigned to the committee to allow the committee to decide what topics to address next. Chair Mills said he intends to have John Kulewicz attend the next meeting to assist the committee in continuing its review of the single subject rule.

Adjournment:

There being no further business to come before the committee, the meeting was adjourned.

Approval:

The minutes of the October 8, 2015 meeting of the Legislative Branch and Executive Branch Committee were approved at the November 12, 2015 meeting of the committee.

/s/ Frederick E. Mills

Frederick E. Mills, Chair

/s/ Paula Brooks

Paula Brooks, Vice-chair