The Ohio Constitution

New Legislative Staff Training

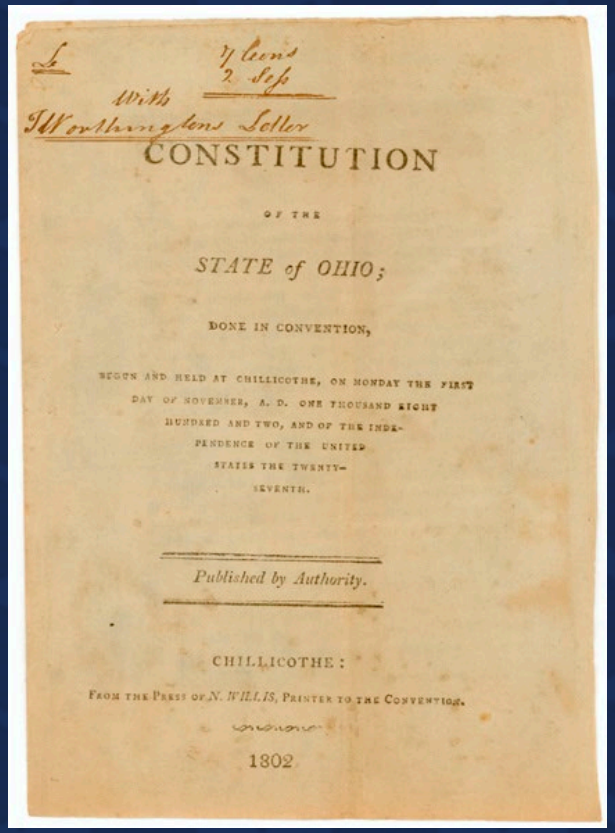
Ohio Legislative Service Commission

About This Course

- In this course, you will learn some basic information about the Ohio Constitution, its purpose and structure, and how it impacts the legislature.
- If your employer is tracking your course completion, be sure to click on the course completion link at the end of the course.
- Additional references:
  - The Ohio Constitution
  - *A Guidebook for Ohio Legislators*, Chapter 1 – The Constitutional Framework of Ohio State Government (PDF)

The Ohio Constitution – A look

- A constitution is the fundamental law of a state or nation.
- The fundamental law of Ohio is embodied in the Ohio Constitution.
- The Ohio Constitution is restricted only by:
  - The U.S. Constitution;
  - Federal law; and
  - International treaties to which the U.S. is a party.


CONSTITUTION

OF THE

STATE of OHIO;

DONE IN CONVENTION,

BEGUN AND HELD AT CHILLICOTHE, ON MONDAY THE FIRST DAY OF NOVEMBER, A. D. ONE THOUSAND EIGHT HUNDRED AND TWO, AND OF THE INDEPENDENCE OF THE UNITED STATES THE TWENTY-SEVENTH.

Published by Authority.

CHILLICOTHE:

FROM THE PRESS OF N. WILLIS, PRINTER TO THE CONVENTION.

1802

Northwest Territory to Statehood

- Before Ohio became a state, it was part of the Northwest Territory from 1787 - 1803.
- In 1802, Congress passed legislation that authorized Ohio to become a state, and a constitutional convention adopted Ohio's first constitution.
- Ohio was admitted to the Union on February 19, 1803, when Congress accepted, and President Thomas Jefferson approved, the Ohio Constitution.



The Northwest Territory in 1787 (U.S. territory northwest of the Ohio River)

Constitutions of 1802 and 1851

- Under the Ohio Constitution of 1802, governmental power was mainly in the legislative branch, and the Governor had no veto authority.
- A constitutional convention was held in 1850-1851.
- New provisions in the Ohio Constitution of 1851 included:
  - Placing limits on the General Assembly's authority to enact laws by requiring that laws of a general nature have a uniform operation throughout Ohio;
  - Prohibiting laws from being retroactive; and
  - Limiting the state's ability to take on debt.
- The Ohio Constitution of 1851 is Ohio's current constitution.

Changes to the Constitution

- The Constitution has been amended many times since 1851.
- Following a 1912 constitutional convention, the voters approved a total of 34 amendments, including:
  - Creating the initiative and referendum processes;
  - Allowing for municipal home rule; and
  - Making changes to the Governor's veto power.
- Any amendment requires the approval of the voters. Amendments may be proposed:
  - By the General Assembly through a joint resolution;
  - By the people through an initiative petition;
  - By a constitutional convention.

Structure of the Constitution

- Similar to the U.S. Constitution, Ohio's Constitution is divided into articles by topic. Within each article are multiple sections.
- For example, both the U.S. and Ohio Constitutions have separate articles defining each of the three branches of government.
- However, the Ohio Constitution is more detailed in structure and operation than the U.S. Constitution.

Articles of the Ohio Constitution

Preamble

I. Bill of Rights

II. Legislative

III. Executive

IV. Judicial

V. Elective Franchise

VI. Education

VII. Public Institutions

VIII. Public Debt and Public Works

IX. Militia

X. County and Township Organizations

XI. General Assembly Redistricting

XII. Finance and Taxation

XIII. Corporations

XIV. Jurisprudence (Repealed)

XV. Miscellaneous

XVI. Amendments

XVII. Elections

XVIII. Municipal Corporations

XIX. Congressional Redistricting

Separation of Powers

- The Ohio Constitution does not explicitly state that there must be separation of powers.
- The Ohio Supreme Court has ruled that the principle of separation of powers is implied by the structure of the Constitution, with each branch having its duties spelled out in its own article.
- Powers of government should be separate.
- Persons who exercise power should be separate individuals and cannot serve in two positions of government at the same time.

Checks and Balances

Under the Ohio Constitution, each branch of government acts as a restraint on the other branches:

	Legislative (General Assembly)	Executive (Governor)	Judicial (Courts)
Checks on Legislative branch		• May veto legislation	• May declare laws unconstitutional
Checks on Executive branch	• May override Governor's veto • May impeach officials		• May declare executive actions unconstitutional
Checks on Judicial branch	• May enact legislation modifying common law (which is law developed through court decisions) • May enact laws creating new courts • Prescribes method of elections and compensation of members of judiciary	• May grant reprieves, commutations, and pardons after conviction	

The Governor's Veto Power

- Ohio's Constitution gives the Governor two types of veto power:
  - The power to veto an entire bill; and
  - Line-item veto authority, which allows the Governor to veto a particular provision of a bill **if that bill makes an appropriation**.

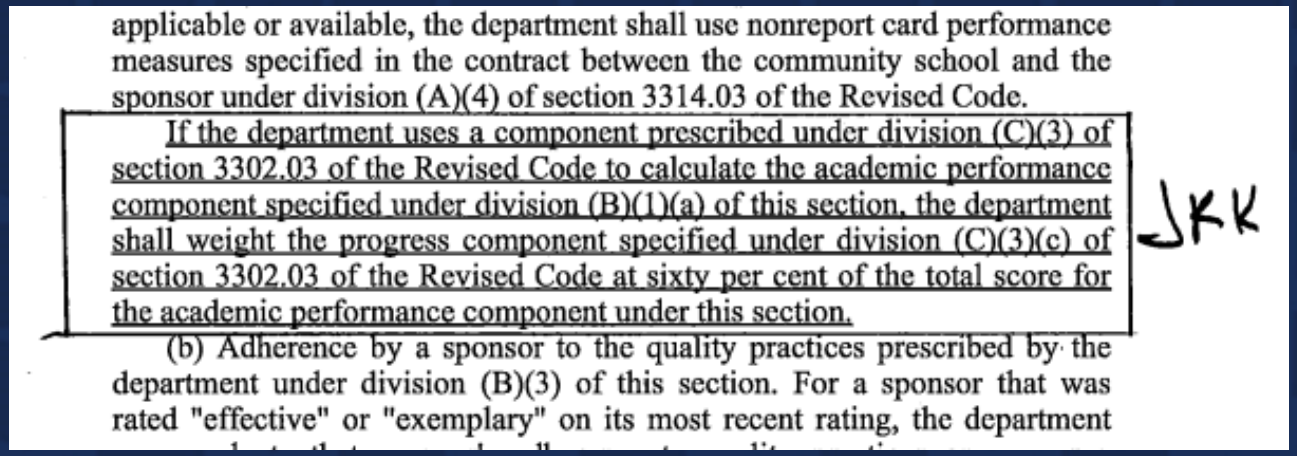
EXAMPLE OF A VETO OF AN ENTIRE BILL

Pursuant to Article II, Section 16 of the Ohio Constitution, which states that the Governor may disapprove of any bill, I hereby disapprove of Substitute Senate Bill Number 296 (SB 296) and set forth the following reasons for so doing.

Example of a Line-item Veto

ITEM NUMBER 7

On page 874 delete the boxed text beginning with "If the department uses a component…" and ending with "…academic performance component under this section.".
On page 875 delete the following boxed text "If the department uses a points system to determine component ratings".
On page 876 delete the boxed text beginning at the top of the page and ending with "…prescribed in division (B)(1)(a) of this section."



applicable or available, the department shall use nonreport card performance measures specified in the contract between the community school and the sponsor under division (A)(4) of section 3314.03 of the Revised Code.

If the department uses a component prescribed under division (C)(3) of section 3302.03 of the Revised Code to calculate the academic performance component specified under division (B)(1)(a) of this section, the department shall weight the progress component specified under division (C)(3)(c) of section 3302.03 of the Revised Code at sixty per cent of the total score for the academic performance component under this section.

JKK

(b) Adherence by a sponsor to the quality practices prescribed by the department under division (B)(3) of this section. For a sponsor that was rated "effective" or "exemplary" on its most recent rating, the department

Legislative Highlights

Legislative power is vested in the General Assembly.

The people retain the legislative power to propose laws and constitutional amendments through the initiative and to reject laws through the referendum.

Article II, Section 1

Legislative Highlights, 2

- Single subject rule:
  - "No bill shall contain more than one subject, which shall be clearly expressed in its title."

- Three considerations for each bill:
  - "Every bill shall be considered by each house on three different days. . ."

Article II, Section 15

Legislative Highlights, 3

- Sessions of the General Assembly:
  - Each two-year General Assembly is divided into two regular sessions, beginning in January of each year.

    Article II, Section 8
- Effective date of legislation:
  - Unless an exception applies, a law passed by the General Assembly goes into effect 90 days after the Governor files it in the office of the Secretary of State.

    Article II, Sections 1c and 1d

Legislative Highlights, 4

- Powers of each house:
  - Each house of the General Assembly is the judge of the election, returns, and qualifications of its own members.

Article II, Section 6

- Term limits:
  - Senators are limited to two successive terms of four years.
  - Representatives are limited to four successive terms of two years.

Article II, Section 2

Legislative Highlights, 5

- Vacancies:
  - When a House seat becomes vacant during a term, the vacancy is filled by appointment. The members of the House who are members of the same political party as the former member select a person to fill the vacancy.
  - When a Senate seat becomes vacant during the first 20 months of the term, a special election is held to fill the vacancy.
  - When a Senate seat becomes vacant later in the term, the vacancy is filled by appointment in the same manner as a House vacancy.

Article II, Section 11

- Compensation:
  - Legislators must receive a fixed compensation prescribed by law. They may not receive any other allowance or perquisites. No change in compensation may take effect during a legislator's term of office.

Article II, Section 31

Bills with Potential Constitutional Issues

- Constitutional issues are sometimes spotted in the bill drafting process or during the legislative process.
- During the bill drafting process, LSC staff will call the requesting member's attention to potential constitutional conflicts.
- For bills that have been introduced and are proceeding in the legislative process, constitutional issues may be pointed out in LSC's analysis of the bill.

Time for a pop quiz!

Question 1

The state constitution under which Ohio currently operates is:

1. The Constitution of 1912
2. The Constitution of 1803
3. The Constitution of 1851, as amended
4. None of the above

Question 1 – Answer

#3 is the correct answer

The Constitution of 1851, as amended

Question 2

True or False?

Ohio permits retroactive laws

Question 2 – Answer

False

Article II, section 28 of the Ohio Constitution prohibits the General Assembly from enacting retroactive laws. For example, the Ohio Supreme Court found provisions of the state Sex Offender Registration Notification Law to be unconstitutionally retroactive. It held that a sex offender who had been classified under an earlier version of the Law could not be subject to new or additional requirements established in later revisions of the Law.

Question 3

True or False?

A sitting judge also may serve as a member of the General Assembly.

Question 3 – Answer

False

A sitting judge may not also serve as a member of the General Assembly. The doctrine of separation of powers, as implied by the Ohio Constitution, requires separate individuals to hold positions of power in the government.

Question 4

True or False?

If appointed to another office mid-term, a member of the General Assembly must resign.

Question 4 – Answer

True

The Ohio Constitution prohibits a member of the General Assembly from simultaneously holding that office and any other federal, state, or local public office.

Question 5

Which articles of the Ohio Constitution govern the legislative branch, the executive branch, and the judicial branch?

Question 5 – Answer

Article II governs the legislative branch.

Article III governs the executive branch.

Article IV governs the judicial branch.

Question 6

If the Governor disapproves of a bill, the Ohio Constitution allows the Governor to:

1. Choose not to enforce the bill
2. Veto the bill
3. Remove the bill's primary sponsor from office
4. Ask the Supreme Court to advise the Governor about whether the bill is constitutional

Question 6 – Answer

#2 is the correct answer

Veto the bill

Question 7

The line-item veto authority allows the Governor to:

1. Disapprove any provision of a bill
2. Disapprove a provision of a bill if the bill levies a tax
3. Disapprove a provision of a bill if the bill declares an emergency
4. Disapprove a provision of a bill if the bill makes an appropriation

Question 7 – Answer

#4 is the correct answer

Disapprove a provision of a bill if the bill makes an appropriation

The Governor may use the line-item veto authority to disapprove a particular item in a bill only if the bill makes an appropriation.

Question 8

A bill must contain no more than _____, which must be expressed in its title.

1. One subject
2. Two cosponsors
3. One policy goal
4. Three subjects

Question 8 – Answer

#1 is the correct answer

One subject

The Ohio Constitution requires a bill to contain no more than one subject, which must be clearly expressed in its title.

Question 9

The principle of _____ grants the General Assembly the authority to override the Governor's veto, impeach officials, and enact laws in response to judicial action.

1. Legislative privilege
2. Legislative prerogative
3. Judicial review
4. Checks and balances

Question 9 – Answer

#4 is the correct answer

Checks and balances

Under the principle of checks and balances, the General Assembly may:

- Override the Governor's veto;
- Impeach state officers for any misdemeanor in office; and
- Enact laws in response to judicial actions with which it disagrees.

Thank you for completing this course.

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