

## STATE COUNCIL OF UNIFORM STATE LAWS OF THE STATE OF OHIO

Jeff Ferriell  
Professor of Law  
Capital University Law School  
303 E. Broad St  
Columbus, OH 43215

614-236-6683 - Voice  
614-309-6497 - Cell  
jferriell@law.capital.edu

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### REPORT TO SUNSET REVIEW COMMITTEE (Ohio Revised Code § 101.86)

Chairman Jordan, Vice Chairman Brown and Members of the Committee:

#### Introductory

My name is Jeff Ferriell, and I work as a full-time member of the faculty at Capital University Law School, here in Columbus. I currently also serve as a member of and the legislative liaison for Ohio Council of Uniform State Laws.

Ohio Revised Code § 105.21 authorizes the Governor to appoint up to four members of the State Council of Uniform State Laws, who serve three-year terms as Ohio's representatives to the National Conference of Commissioners on Uniform State Laws, which is also now known as the Uniform Law Commission ("ULC"). The ULC, which is in its 125<sup>th</sup> year, is comprised of approximately 350 representatives from all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Its members draft uniform and model acts and offer these to the States' legislatures in an effort to promote uniformity in state law on subjects as to which uniformity is both desirable and practicable.

The ULC achieves its objectives through study and drafting committees, floor debates at its annual conference, and the work of the commissioners in their individual states in liaison with legislatures and other public and private organizations. In Ohio, this almost always involves working with the Ohio State Bar Association and other Ohio industry groups. At the national level, where proposed statutes are drafted, it always involves working with industry and consumer groups, and sometimes members of the general public, who have an interest in the topic involved in the proposed legislation.

Commissioners, who are judges, practicing lawyers, legislators, and law professors, receive no compensation for their services, though some of their out-of-pocket travel expenses are reimbursed either by their states, or by the ULC through dues that states pay to the national organization. State dues are primarily used to support the ULC's small administrative staff in Chicago, Illinois, who provide assistance to members of the ULC, including members of the Ohio Council.

The Ohio Revised Code currently includes about 30 acts which are or contain portions of legislation developed by the ULC. I've attached an appendix to my testimony that lists most of these acts.

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Current Members. Current Council members are myself, Ohio State Moritz College of Law Professor Larry Garvin, and the Ohio State University's Deputy General Counsel Alexandra Schimmer, who formerly served as the State Solicitor for Ohio Attorney Generals Richard Cordray and Mike DeWine. There is currently one vacancy on the Council. In addition, former Council members Lee McCorkle and Boris Auerbach are recognized by the ULC as members of the Ohio delegation by virtue of their life membership in the ULC, which ULC Commissioners are eligible for after serving for 20 years. Commissioner Auerbach has served as a member of the Ohio Council or a Life member for 49 years, and, now in his 80's remains a valuable contributor to the ULC's work. Former recent members of the Council include Stanley Fisher (Cleveland), Frederick Nelson (Cincinnati), Prof. Bill Evans (Lima), and former Ohio Attorney General Nancy Rogers (Columbus). Michael Burns, a representative of the Legislative Service Commission, is designated as an Associate Member of the ULC.

Primary Purpose and Objectives. The Council's primary purpose is to represent Ohio at the ULC, and to then seek adoption uniform acts promulgated by the ULC, in Ohio, in an effort to promote uniformity of state where this is both important and achievable. The Council does this work in an effort to achieve uniformity through state legislation rather than through federal intervention. In this respect the ULC is a key component of our nation's multi-jurisdictional state government system.

Workload, Staff, Compensation, Budget & Funding. Members of the Council serve on various ULC committees as members, draftspersons ("reporters"), and chairpersons. They work on drafting, revising, seeking enactment of uniform laws prepared by the ULC. Members of the Council devote anywhere from one-three hundred hours each year to the Council's work.

The Ohio Council has no staff. Its work is supported by members of the ULC's small administrative staff in Chicago, whose work is supported by dues that Ohio pays to the ULC. Members of the Ohio Council receive no compensation, but receive partial reimbursement for their out-of-pocket expenses, from the ULC.

Apart from the annual dues that Ohio pays to maintain the status of Ohio's members as members in good standing of the ULC, the Council has no budgets or funding. The Ohio Council maintains no offices, has no employees, and enters into no contracts. Its members conduct their work out of their homes, and where permitted by their employers, out of their professional offices.

The ULC assesses dues to each state, based upon population, which in Ohio for at least the last 20 years have been paid through the Ohio Judicial Conference. Ohio's dues for Fiscal Year ending June 30, 2016, were \$81,500. In addition, in recent years, Ohio has paid a total of \$6,000 per year to partially defer Council members' expenses in attending the Annual Conference. Incidental expenses of the Council, such as secretarial services, copying, local travel, postage, computers, and long distance tolls, are provided by the Council members or by their employer organizations. As university

professors, Commissioner Larry Garvin and I are expected to perform community service as part of our regular duties, and thus our employers are willing to provide a degree of support to our work for the Ohio Council and the ULC.

The Council recommends its uniform products to the General Assembly for the benefit of the citizens of the State generally. These legislative proposals are adopted on a selective basis.

The Council has no regulatory functions and exercises no regulatory authority. All meetings and deliberations of the Ohio Council and ULC are open to the public. Moreover, ULC study and drafting committees both welcome and actively seek the advice participation of industry and consumer groups who are likely to be affected by uniform acts the ULC is preparing.

Enabling Laws. Minor changes in enabling laws may be appropriate and have been under review by the Council and the Ohio State Bar Association for possible ultimate presentation to the General Assembly. In particular, members of the Council believe that the Council's work would be facilitated by an expansion of the membership of the Council to include two members of the Ohio General Assembly, with one member from the House and one member from the Senate.

#### Conclusion

Ohio joined the National Conference of Commissioners on Uniform State Laws in 1898. As far as we know, Ohio has remained a member in good standing of the ULC, continuously for 118 years, through good times and bad, including two world wars, the Great Depression, the Great Recession, and numerous other challenges. For over a century, Ohio's participation has benefited Ohio and the nation generally, principally by providing quality legislation for consideration by Ohio's legislature. It is inconceivable that Ohio's participation and work would be interrupted by termination of the Ohio Council which is the sole avenue for Ohio's participation in the work of the ULC.

Thank you for your attention and I'll be pleased to try to answer any questions that you might have about the Council or its work.

## Appendix - Uniform Acts Adopted in Ohio

- Uniform Adult Guardianship and Protective Proceedings Act
- Uniform Anatomical Gift Act
- Uniform Athlete Agents Act
- Uniform Child Custody Jurisdiction and Enforcement Act,
- Uniform Collaborative Law Act
- Uniform Collateral Consequences of Conviction Act
- Uniform Commercial Code, Articles 1-5, 7-9, 2A, & 4A
- Uniform Consumer Sales Practices Act
- Uniform Declaratory Judgments Act
- Uniform Determination of Death Act
- Uniform Division of Income for Tax Purposes Act
- Uniform Duties to Persons with Medical ID Devices Act
- Uniform Electronic Transactions Act,
- Uniform Enforcement of Foreign Judgments Act
- Uniform Environmental Covenants Act
- Uniform Rules of Evidence
- Uniform Foreign Money Claims Act
- Uniform Fraudulent Transfer Act,
- Uniform Mediation Act
- Uniform Partnership Act;
- Uniform Power of Attorney Act
- Uniform Principal and Income Act
- Uniform Probate Code
- Uniform Prudent Investor Act
- Uniform Prudent Management of Institutional Funds Act
- Uniform Simultaneous Death Act
- Uniform Testamentary Additions to Trusts Act
- Uniform Trade Secrets Act
- Uniform Transfers to Minors Act
- Uniform Trust Code