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Bill Analysis
Legislative Service Commission

H.B. 445

124th General Assembly
(As Reported by H. State Government)

Reps. Kearns, Trakas, Clancy

BILL SUMMARY

- Requires the Ohio Ballot Board or persons designated by the Board to prepare and file arguments or explanations in support of or in opposition to (1) each constitutional amendment proposed by the General Assembly, (2) each constitutional amendment or law proposed by initiative petition, and (3) each law, section of law, or item of law subject to a referendum petition, if the persons designated to prepare the arguments or explanations fail to timely prepare and file them.
- Requires the Secretary of State to notify the Board if required arguments or explanations have not been prepared and filed by the 75th day before the date of an election.
- Specifies that the positions of the four appointed members of the Board must be considered vacant if the Board fails to have the missing arguments or explanations prepared and filed after the notification from the Secretary of State.
- Changes from 75 to 80 days before an election the deadline by which the Board must certify ballot language and explanations to the Secretary of State for constitutional amendments proposed by the General Assembly.

CONTENT AND OPERATION

Preparation of ballot arguments and explanations

Existing law

Article II, Section 1g of the Ohio Constitution requires an argument, explanation, or both, to be prepared in favor of and in opposition to each initiative, supplementary, or referendum petition. That constitutional section and section

3519.03 of the Revised Code specify that the person or persons ("committee") who prepare an argument or explanation *against* any law, section of law, or item of law submitted to the electors by referendum petition may be, but are not required to be, named in that petition. Similarly, those sections provide that an initiative petition may name, but is not required to name, a committee to prepare an argument or explanation *in favor of* the measure proposed. Under existing law, there is no provision specifying who, if anyone, prepares these arguments or explanations if the committee named in a referendum or initiative petition declines or fails to prepare them or if no committee is so named by the petitioners. Thus, even though constitutionally required to be prepared, these arguments or explanations may not actually be prepared under those circumstances.

The General Assembly, if in session, and the Governor, if the General Assembly is not in session, is required to name the persons who are to prepare the argument, explanation, or both in opposition to a measure proposed by an initiative petition or in favor of a law, section, or item to be referred (Article II, Section 1g, Ohio Constitution; sec. 3519.03). The General Assembly also is permitted, when it adopts a resolution proposing a constitutional amendment, to designate a group of members who voted in support of the resolution to prepare arguments for the proposed amendment and a group of members who voted in opposition to the resolution to prepare arguments against the proposed amendment. If no members voted in opposition, or if the General Assembly chooses not to designate members to prepare either type or both types of arguments, the Ohio Ballot Board is permitted, but not required, to prepare the relevant arguments or to designate a group of persons to prepare them. (Sec. 3505.063.) Existing law does not provide a penalty if the arguments or explanations described in this paragraph are not prepared, and does not specify who, if anyone, prepares them if the named persons fail to do so.

Changes proposed by the bill

The bill requires the Ohio Ballot Board to prepare, or to designate a group of persons to prepare, arguments or explanations in support of or in opposition to all of the following, if the persons otherwise responsible for their preparation fail to timely prepare and file them (secs. 3505.062(D), 3505.063(B), and 3519.03(B)):

- (1) A constitutional amendment proposed by a resolution of the General Assembly;
- (2) A constitutional amendment or law proposed by initiative petition;
- (3) A law, section of law, or item of law subject to a referendum petition.

Specifically, if the committee named in an initiative or referendum petition, a designated group of General Assembly members, or other designated persons fail to prepare and file their arguments or explanations by the 75th day before the day of an election, the Secretary of State is required to notify the Board that the arguments or explanations have not been prepared and filed. The Board then must prepare the missing arguments or explanations or designate a group of persons to do so; they cannot exceed 300 words. All arguments or explanations so prepared must be filed with the Secretary of State no later than 70 days before the date of the election. (Secs. 3505.063(B)(1) and 3519.03(B)(1).)

If the Board fails to provide for the preparation of missing arguments or explanations after being so notified by the Secretary of State, the positions of the four appointed members of the Board must be considered vacant, and new members must be appointed in the manner provided for original appointments (secs. 3505.061(B), 3505.063(B)(2), and 3519.03(B)(2)).

Certification of ballot language and explanation

Existing law requires the Ohio Ballot Board to prescribe the ballot language for constitutional amendments proposed by the General Assembly to be printed on the questions and issues ballot and to prepare an explanation of each such constitutional amendment (sec. 3505.062(A) and (B)--unchanged by the bill). The ballot language and explanation must be certified to the Secretary of State no later than 75 days before the election at which the proposed question or issue is to be submitted to the voters. The bill changes the time for that certification to no later than 80 days before that election. (Sec. 3505.062(C).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-04-01	p. 1098
Reported, H. State Gov't	02-27-02	p. 1472

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