



Members Only

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How an Issue Becomes a Statewide Ballot

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Introduction

This informational brief describes the methods by which a proposal may become a **statewide** ballot issue in Ohio.¹ The following table summarizes the methods:

<i>ISSUES THAT MAY BE PLACED ON THE STATEWIDE BALLOT</i>		
Issue	Who causes the issue to be placed on the ballot	Primary Ohio constitutional authority
Whether to make changes being proposed to the Revised Code	The electors, by initiative petition	Section 1b of Article II
Whether to make changes being proposed to the Ohio Constitution	The electors, by initiative petition	Section 1a of Article II
	The General Assembly	Section 1 of Article XVI
Whether to repeal a statute before it takes effect	The electors, by referendum petition	Section 1c of Article II
Whether an enacted statute relating to schools shall take effect	The General Assembly	Section 26 of Article II
Whether to hold a convention to amend the Ohio Constitution	The Secretary of State, as required by the Ohio Constitution	Section 3 of Article XVI
	The General Assembly	Section 2 of Article XVI

* This Members Only Brief is an update of earlier Briefs on this subject dated April 19, 1999 (Volume 123 Issue 1) and October 4, 2004 (Volume 125 Issue 9).



The Ohio Constitution reserves to the people the powers of initiative and referendum.

An initiative petition may propose either statutory or constitutional changes.

Initiative and Referendum Petitions

Section 1 of Article II of the Ohio Constitution reserves to the people the powers of initiative and referendum. The power of **initiative** allows electors to propose a statute, propose the amendment or repeal of a statute enacted by the General Assembly, or propose an amendment to the Constitution. The power of **referendum** allows electors to reject a statute enacted by the General Assembly before the statute takes effect.

Initiative

Sections 1a, 1b, and 1g of Article II of the Ohio Constitution and Chapters 3505. and 3519. of the Revised Code establish *procedures* for proposing statutory changes (that is, a law in the Ohio Revised Code), and amendments to the Ohio Constitution, by initiative.

Petitioners proposing a law or constitutional amendment by initiative must, by a written petition signed by 1,000 qualified electors, submit the proposed law or constitutional amendment and a summary of it to the Attorney General for examination. This petition is different from the petition circulated for electors to sign in order to have the issue placed on the ballot.

Within ten days after the receipt of those documents, the Attorney General must examine *the summary*, and, if the Attorney General

determines the summary is a fair and truthful statement of the proposed law or constitutional amendment, the Attorney General must certify it as so and then forward the submitted petition to the Ohio Ballot Board. The Ballot Board is then charged with examining that petition within ten days after its receipt to determine whether it contains *only one proposed law or constitutional amendment* so as to enable the voters to vote on each proposal separately. The Ballot Board must divide any petition received from the Attorney General that violates this “one proposal standard” into separate petitions that comply with it.

If the Ballot Board finds the submitted petition complies with the “one proposal standard,” it must certify its *approval of the petition* to the Attorney General. But, if the Ballot Board finds the submitted petition fails to comply with the “one proposal standard” and divides it into separate petitions, the Ballot Board must certify its *approval of the separate petitions* to the Attorney General; the petitioners in this case must resubmit to the Attorney General the appropriate summaries for each of the separate petitions arising from the Ballot Board’s division, and the Attorney General must conduct the same review and certification process for each resubmitted summary. When, after these steps, an initiative’s summary has been certified by the Attorney General and the initiative approved by the Ballot Board as complying with the “one proposal standard,” a



verified copy of the proposed law or constitutional amendment, together with its summary and the Attorney General's certification of it, must be filed with the Secretary of State.²

Next, the initiative petition is circulated among the electors for signatures. Each circulator must be an Ohio resident. The petition may be circulated in separate parts but each part must contain the full text of the proposed law or constitutional amendment as well as the text of any existing statute or constitutional provision that would be amended or repealed if the proposal is adopted. The petitioners must designate on the petition a committee of at least three and not more than five of their number to represent them in matters relating to the petition.³

To be eligible to sign a petition, a person must be a "qualified elector" of the state; that is, the person must be a United States citizen who is 18 years of age or older, a resident of Ohio for at least 30 days, and registered to vote for at least 30 days. The person also must have resided in the county and precinct where the person is registered for at least 30 days at the time of the next election. Each part of the petition that is circulated for signatures may contain signatures from only one county; signatures of residents of other counties are invalid. All signatures on the petition must be an original signature in ink. The signed petitions are filed with the Secretary of State.⁴

The completed petitions for **constitutional amendments** must

contain signatures equal in number to 10% of the total votes cast in the last election for Governor.⁵ The completed petitions for **laws** must contain signatures equal in number to 3% of the total votes cast in the last election for Governor.⁶ Section 1g of Article II of the Ohio Constitution further requires that petitions be submitted from one-half of the counties, with the petitions from each of these counties bearing a number of signatures equal to at least 5% of the county's electors for a proposed constitutional amendment, and at least 1.5% for a proposed law. Any remaining signatures needed may be obtained randomly.

The Secretary of State may check, via a statutory process involving the county boards of elections, the validity of the signatures until 40 days before the election at which the proposed law or constitutional amendment will be voted on. If the valid signatures are insufficient in number, the Secretary of State must notify the circulators through the chairperson of their designated committee, and they will have ten additional days to file the additional requisite signatures by supplementary petitions. Once the proposed law or constitutional amendment has been voted on, a challenge to the signatures on the petition cannot void the results.⁷

Before any proposed law or constitutional amendment is voted on, the proponents have the responsibility to prepare an argument for the proposal or an explanation of it, or both, not

The Ohio Constitution and the Revised Code govern the number of initiative petition signatures and the counties from which they must be gathered, arguments for and against the proposal, ballot language, submission of a proposed constitutional amendment to the electors, and submission of a proposed law to the electors after the General Assembly has considered it.



exceeding 300 words each. The General Assembly if it is in session, or the Governor if it is not, must designate persons to similarly prepare an opposing argument or explanation. The arguments or explanations, together with the proposed law or constitutional amendment, must be published for three consecutive weeks before the election in at least one newspaper of general circulation in each county that has such a newspaper. The Ballot Board must prescribe the ballot language for the proposal and, in certain instances when the requisite arguments or explanations have not been timely prepared, must prepare the missing arguments or explanations or designate a group of persons to do so.⁸

Am. Sub. H.B. 3 of the 126th General Assembly specifically required the Secretary of State to post on the office's web site (1) the full text of each state law or constitutional amendment proposed by initiative petition that has been approved for the ballot, (2) the certified summary of the proposed state law or constitutional amendment, (3) the ballot language of the proposed state law or constitutional amendment, and (4) the arguments or explanations in favor of or against the proposed state law or constitutional amendment. That act also provided that, when the Secretary of State publishes or posts on the office's web site arguments or explanations in favor of or against any state law or constitutional amendment proposed by initiative petition that has been approved for the ballot, the Secretary

of State must include the names of the persons who prepared the argument or explanation.⁹

Prior to 60 days before the election at which a proposed law or constitutional amendment is scheduled to appear on the ballot (see the next paragraph), a majority of the members of the committee named in the initiative petition may *withdraw* it by giving a written notice to that effect to the Secretary of State. Once the petition is so withdrawn, it may not be resubmitted.¹⁰

Assuming a withdrawal circumstance does not apply, the Secretary of State must submit a *proposed constitutional amendment* directly to the voters at any regular election¹¹ occurring 90 days after the initiative petition is filed. An initiative petition for a *proposed law* must be filed with the Secretary of State at least ten days before any session of the General Assembly commences and must be transmitted by the Secretary of State to the General Assembly as soon as it convenes for it to consider.¹²

If the General Assembly (1) fails to act on a proposed law within four months, (2) defeats the proposed law, or (3) amends and approves the proposed law, the proponents, within a 90-day period, may file a supplementary petition with the Secretary of State demanding that the proposed law be submitted to the electors at the next regular election. The supplementary petition must contain signatures equal in number to 3% of the votes cast in the last election for Governor, excluding the



signatures of those who signed the original petition. The proponents must choose whether the proposed law will appear on the ballot in its original form or with any amendments added by the General Assembly. A proposed law may be submitted at a general election at least 90 days after the supplementary petition is filed.¹³

If a majority of the electors approve a proposed law or constitutional amendment, it becomes effective 30 days after the election. Any version of a proposed law passed by the General Assembly is invalidated. If, however, the electors reject a proposed law, any version passed by the General Assembly is valid.¹⁴

No law that the electors propose by initiative petition and approve is subject to the Governor's veto.¹⁵

Referendum

Section 1c of Article II of the Ohio Constitution prohibits (with specified exceptions) any law passed by the General Assembly from going into effect until 90 days after it has been filed by the Governor with the Secretary of State. This delayed effective date is to allow for a referendum on a law by the electors. Whoever seeks to file a referendum petition against any law, any section of law, or any item in any law appropriating money passed by the General Assembly must, by a written petition signed by 1,000 qualified electors, submit the measure to be referred and a summary of it to the Secretary of State, with a copy

to the Attorney General. This is not the petition that must be circulated among the electors to place the issue on the ballot.¹⁶

Not later than ten business days after receiving the petition, measure, and summary, the Secretary of State must have the validity of the signatures on the petition verified, determine whether the text of the measure is correct, and, if it is correct, certify it. The Attorney General, within the same ten business days, must examine the summary and, if in the Attorney General's opinion it is a fair and truthful statement of the measure to be referred, so certify it.¹⁷

A referendum petition (the petition that is signed by the electors) must contain the signatures of 6% of the state's electors (that is, the total votes cast in the last election for Governor) and be filed with the Secretary of State within 90 days after the law in question is filed by the Governor with the Secretary of State. After receiving the referendum petition, the Secretary of State must submit the law, section, or item, as set forth in the petition, to the electors of the state for their approval or rejection at the next regular or general election in any year that occurs 60 days after the petition is filed. The law, section, or item cannot go into effect until approved by a majority of the electors voting on the referendum, but if only a part of a law is being challenged, the part that is not being challenged is not prevented or delayed from going into effect.¹⁸

A law the electors propose by initiative and approve is not subject to the Governor's veto.

Referendum petitions must be filed within 90 days after the Governor files the law in question with the Secretary of State.



Submission of a proposed constitutional amendment to the electors by the General Assembly requires approval by three-fifths of the members of each house.

Some laws go into immediate effect and are not subject to referendum.

The procedure and requirements for gathering signatures on a referendum petition in order to submit the issue to the electors of the state is the same as for an initiative petition, as described previously. All signatures on the referendum petition must be an original signature in ink; signatures must be filed from one-half of the counties in the state; the petitioners may file a supplementary petition if they do not have enough valid signatures on the first petition submitted; the circulators of the referendum petition must be Ohio residents; arguments for or against, or explanations of, the referendum must be prepared; the text, arguments, and explanations must be advertised in the same manner as an initiative; and a majority of the members of the committee named to represent the petitioners may withdraw the petition before the 60th day before the election at which the issue is scheduled to appear on the ballot by giving a written notice of withdrawal to the Secretary of State.¹⁹

Some laws are not subject to the referendum. Under Section 1d of Article II of the Ohio Constitution, laws providing for tax levies, appropriations for the current expenses of state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health, or safety go into immediate effect, and are not subject to referendum.

Although “referendum” may at times be used informally to mean any attempt by citizens to repeal a

law passed by the General Assembly, under the Ohio Constitution a referendum petition may be filed only within the first 90 days after a law is passed by the General Assembly. After that period, if the electors seek to repeal an existing law, they must do so by initiative petition.

Constitutional Amendment Proposed by the General Assembly

Section 1 of Article XVI of the Ohio Constitution permits either branch of the General Assembly to propose amendments to the Constitution; approval by a three-fifths vote of the members of each house is required to submit a proposal to the electorate. The joint resolution proposing a constitutional amendment must be filed with the Secretary of State at least 90 days before the election at which the proposal goes to the electors. The proposed amendment may be put on the ballot at either a special or a general election, and must be submitted on a separate ballot with no party designation.²⁰

A majority of the Ohio Ballot Board must prescribe the ballot language for a proposed constitutional amendment; that language must properly identify the substance of the proposal. The Ballot Board also must prepare an explanation of the proposal, which may include its purpose and effects, and must certify the ballot language and the explanation of the proposal to the



Secretary of State at least 75 days before the election. Unless the General Assembly provides otherwise for the preparation of arguments for and, if any, against a proposed constitutional amendment, the Ballot Board may prepare those arguments.²¹

A proposed constitutional amendment, its ballot language, its explanation, and the arguments, if any, must be published once a week for three consecutive weeks before the election, in at least one newspaper of general circulation in each county of the state where a newspaper is published. The General Assembly must provide by law for other dissemination of information in order to inform the electors concerning the proposal.²²

The Ohio Supreme Court has exclusive, original jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors. A case challenging the proposal cannot be filed later than 64 days before the election. And, the ballot language cannot be held invalid unless it is such as to mislead, deceive, or defraud the voters.

An election on a proposed constitutional amendment submitted by the General Assembly cannot be enjoined or invalidated because the explanation, arguments, or other information is faulty in any way. If a majority of the electors voting on the amendment adopt it, it becomes a part of the Constitution. When more than one constitutional amendment is submitted to the electors at the same

time, each amendment must be voted on separately.

Statute Relating to Schools, Effective Upon Voter Approval

Section 26 of Article II of the Ohio Constitution prohibits the General Assembly from passing a law subject to the approval of any other authority, such as the electors, except in the case of laws relating to public schools. This provision has been used only once to submit a school-related issue to the electors. In the May 1998 primary election, the issue was submitted whether to enact the provisions of Amended Substitute House Bill 697 of the 122nd General Assembly, levying a statewide 1% sales and use tax to be used one-half for school operations, education technology, school facilities, and debt service for school facilities, and one-half for additional property tax relief for homesteads. The issue failed.

Constitutional Convention

Section 3 of Article XVI of the Ohio Constitution requires that every 20 years, beginning at the general election held in 1932, the following question be submitted to the electors of Ohio: “Shall there be a convention to revise, alter, or amend the constitution?” If a majority of the electors voting on the question decide in favor

The question of whether a constitutional convention should be called must be submitted to the electors every 20 years.



of a convention, the General Assembly, at its next session, must provide by law for the election of delegates and the assembling of a constitutional convention as set forth in Section 2 of Article XVI. Any amendment to the Constitution that a convention agrees upon must be submitted to the electors and adopted by majority vote before it takes effect.

Section 2 of Article XVI provides that, whenever two-thirds of the members elected to each house of the General Assembly think it necessary to call a constitutional convention to revise, amend, or change the Constitution, they must recommend to the electors to vote by separate ballot, at the next election for members of the General Assembly, on whether to hold a constitutional convention. The separate ballot must have no party designation. If a majority of the electors vote for calling a convention, the General Assembly, at its next session, must provide by law for calling one. Candidates for members of the constitutional convention must be nominated by nominating petitions only and be voted for upon one independent and separate ballot without any emblem or party designation. The constitutional convention must consist of as many members as are in the House of Representatives (99), who must be chosen as provided by law, and the convention must convene within three months after its members' election.

Secretary of State Web Site Miscellaneous Information

Lists of all statewide ballot issues in Ohio from 1912 through November 2005, including the tallies of the votes on each issue, have been compiled by the office of the Secretary of State and are available on the office's web site.

Endnotes

¹ The brief does not deal with local ballot issues.

² R.C. 3505.062(A) and 3519.01(A).

³ Section 1g of Article II of the Ohio Constitution and R.C. 3503.06(B), 3519.01, and 3519.02.

⁴ Sections 1a, 1b, and 1g of Article II of the Ohio Constitution, Section 1 of Article V of the Ohio Constitution, and R.C. 3503.01, 3503.06(C), 3519.051, and 3519.10.

⁵ Sections 1a and 1g of Article II of the Ohio Constitution and R.C. 3519.22.

⁶ Sections 1b and 1g of Article II of the Ohio Constitution and R.C. 3519.22.

⁷ Section 1g of Article II of the Ohio Constitution and R.C. 3519.16 and 3519.22.



⁸ Section 1g of Article II of the Ohio Constitution and R.C. 7.101, 3505.062, and 3519.03.

The Ohio Ballot Board consists of the Secretary of State, who chairs the Board, and four appointed members, no more than two of whom may be members of the same political party. One member is appointed by the President of the Senate, one by the Minority Leader of the Senate, one by the Speaker of the House of Representatives, and one by the Minority Leader of the House of Representatives. Section 1 of Article XVI of the Ohio Constitution and R.C. 3505.061.

⁹ R.C. 3519.07.

¹⁰ R.C. 3519.02 and 3519.08.

¹¹ The Secretary of State interprets “regular election” to mean a general election, which is held on the first Tuesday after the first Monday in November (R.C. 3501.01(A); see also R.C. 3501.02(E)).

¹² Sections 1a and 1b of Article II of the Ohio Constitution.

¹³ Section 1b of Article II of the Ohio Constitution and R.C. 3501.02(E).

¹⁴ Section 1b of Article II of the Ohio Constitution.

¹⁵ Section 1b of Article II of the Ohio Constitution.

¹⁶ R.C. 3519.01(B)(1).

¹⁷ R.C. 3519.01(B)(2).

¹⁸ Section 1c of Article II of the Ohio Constitution and R.C. 3501.02(E) and 3519.22.

¹⁹ Section 1g of Article II of the Ohio Constitution and R.C. 7.101, 3503.06, 3505.062, 3519.02, 3519.03, 3519.051, and 3519.08.

²⁰ The General Assembly may submit constitutional amendments that it proposes to the voters of the state at a general election or at a special election that occurs on the day of a primary election (R.C. 3501.02(E)).

²¹ See also R.C. 3505.062 and 3505.063.

²² See also R.C. 7.101.



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