



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Statewide Ballot Issues

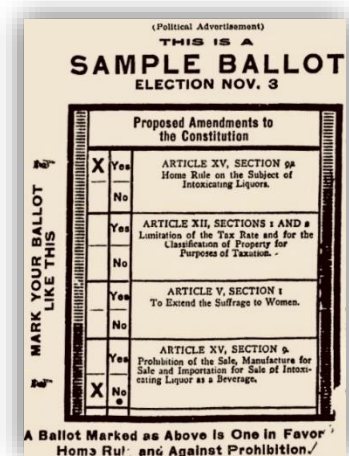
This brief explains the various avenues for placing issues on the statewide ballot, including the initiative, the referendum, and constitutional amendments proposed by the General Assembly.

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## Introduction

Since 1912, the Ohio Constitution has reserved certain legislative powers to the people in the form of the initiative and the referendum. Those processes allow the people to gather petition signatures from registered electors in order to propose statutes and amendments to the Ohio Constitution and to place laws passed by the General Assembly on the ballot for approval or rejection. The General Assembly also has the authority to place certain issues on the ballot, such as proposed constitutional amendments. This brief explains the procedures for each method of placing an issue on the statewide ballot.<sup>1</sup>



Advertisement from  
The Youngstown Daily Vindicator  
November 2, 1914

## Petition requirements at a glance

| Type of Petition                              | Signatures Required <sup>2</sup>   | Geographic Requirement  | Filing Deadline   |
|---|--|---|---|
| Initial petition for initiative or referendum | 1,000 registered electors  | None  | None  |
| Initiated constitutional amendment            | Signatures equal to 10% of the electors<br>Currently, 413,446 signatures | Signatures equal to 5% of the electors in each of 44 counties   | Appears on the ballot at the next general election held at least 125 days after the petition is filed     |
| Initiated state statute – main petition       | Signatures equal to 3% of the electors<br>Currently, 124,004 signatures  | Signatures equal to 1.5% of the electors in each of 44 counties | Must be filed and verified at least 10 days before the first Monday in January to be considered that year |

<sup>1</sup> Ohio Constitution, Article II, Sections 1 through 1g. See also Ohio Secretary of State, [Putting an Issue on the Ballot](#), for step-by-step explanations of the initiative and referendum processes, available at [ohiosos.gov](#).

<sup>2</sup> The total number of electors in the state or a county is calculated based on the number of votes for the office of Governor in that place at the most recent gubernatorial election. The Secretary of State publishes a [Governor’s Percentage Chart \(PDF\)](#) that provides the current required petition signature counts statewide and in each county. The chart is available on the Secretary’s website at [ohiosos.gov](#).

| Type of Petition  | Signatures Required <sup>2</sup>  | Geographic Requirement  | Filing Deadline   |
|---|---|---|---|
| Initiated state statute – supplementary petition<br>(If the General Assembly does not enact the statute in the requested form within four months) | Signatures equal to 3% of the electors<br><br>Currently, 124,004 signatures | Signatures equal to 1.5% of the electors in each of 44 counties | 90 days after the General Assembly rejects the statute or 90 days after the General Assembly misses the four-month deadline to act<br><br>Appears on the ballot at the next general election held at least 125 days after the petition is filed |
| Referendum  | Signatures equal to 6% of the electors<br><br>Currently, 248,047 signatures | Signatures equal to 3% of the electors in each of 44 counties   | 90 days after the Governor files the bill with the Secretary of State<br><br>Appears on the ballot at the next general election held at least 125 days after the petition is filed  |

## Constitutional amendments

### Initiated constitutional amendments

To propose a constitutional amendment, the proponents must file a petition with the Secretary of State that is signed by 10% of the electors, based on the most recent vote for Governor (as of the 2022 election, 413,446 signatures of registered electors). Those signatures must include part-petitions from half of Ohio's counties (44 counties), signed by not less than 5% of the electors of that county. If the petition is valid, the proposal must be placed on the ballot at the next general election held at least 125 days after the petition is filed.

The Ohio Constitution includes additional requirements, added in 2015, concerning initiated constitutional amendments that would grant or create a monopoly, oligopoly, or cartel; specify a tax rate; or confer a commercial interest, right, or license to any person that is not available to other similarly situated persons. For example, a proposed amendment that would give only one particular company, or a group of companies, the right to run a certain type of business in Ohio might trigger those requirements. If the Ohio Ballot Board determines that a constitutional amendment proposed by initiative petition is of the kind described above, the amendment must appear on the ballot as two separate questions: (1) whether the petitioner should be authorized to initiate a constitutional amendment in violation of the restriction and

(2) whether the amendment should be approved. Both questions must be approved by a majority of the electors in order for the amendment to take effect.<sup>3</sup>

Since 1912, 71 initiated constitutional amendments have appeared on the ballot, with 19 passing (27%). The electors exercise their right to initiate constitutional amendments significantly more often than they initiate statutes or use the referendum.<sup>4</sup>

### **Constitutional amendments proposed by the General Assembly**

Additionally, the General Assembly may propose an amendment to the Ohio Constitution by passing a joint resolution approved by at least  $\frac{3}{5}$  of the members of each chamber. The legislature must adopt the joint resolution and file it with the Secretary of State at least 90 days before the election at which the proposal is to appear on the ballot. Unlike an initiated constitutional amendment, which may appear on the ballot only at a general election, an amendment proposed by the legislature may be submitted at any election, as specified in the resolution.<sup>5</sup> Between the 1850s and the present, the General Assembly has proposed 201 amendments to the Ohio Constitution, with 117 amendments being approved (58%).

### **Constitutional conventions**

The General Assembly also may place an issue on the ballot to ask the electors whether a constitutional convention should be called to recommend changes to the Ohio Constitution. If at least  $\frac{2}{3}$  of the members of each chamber vote in favor of calling a convention, the issue must be placed on the ballot at the next general election held in an even-numbered year. Further, the Ohio Constitution requires that the question of whether to call a constitutional convention be placed on the ballot automatically every 20 years, beginning in 1932.

If the voters approve a ballot issue calling for a constitutional convention, the General Assembly must call the convention and arrange for the election of delegates. Any constitutional amendments recommended by the convention must be placed on the ballot for approval by the voters. Ohio's last constitutional convention was in 1912. Since then, only the automatic convention calls have appeared on the ballot – most recently in 2012 – and the electors have not approved them.<sup>6</sup>

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<sup>3</sup> Ohio Const., art. II, secs. 1a, 1e, and 1g. The Ohio Ballot Board consists of the Secretary of State and four appointed members, with one member appointed by each of the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. (R.C. 3505.061.)

<sup>4</sup> All statistics compiled from Cleveland-Marshall College of Law Library, *Ohio Constitution – Law and History*, “[Table of Proposed Amendments](#),” available on the library’s website at [guides.law.csuohio.edu](#), and Ohio Secretary of State, [Proposed Constitutional Amendments, Initiated Legislation, and Laws Challenged by Referendum, Submitted to the Electors \(PDF\)](#), available on the Secretary’s website under “Statewide Issue History” at [ohiosos.gov](#).

<sup>5</sup> Ohio Const., art. XVI, sec. 1.

<sup>6</sup> Ohio Const., art. XVI, secs. 2 and 3. See also Cleveland-Marshall College of Law Library, *Ohio Constitution – Law and History*, “[Calls for Conventions](#),” available on the library’s website at [guides.law.csuohio.edu](#).

## Statutes

### Initiated statutes

The electors may propose any statute by initiative petition, except for certain types of laws regarding property taxes. To propose a statute, the proponents must file with the Secretary of State a petition that is signed by 3% of the electors, based on the most recent vote for Governor (as of the 2022 election, 124,004 signatures of registered electors). Those signatures must include part-petitions from half of the counties of the state (44 counties), signed by not less than 1.5% of the electors of that county.

The petition must be filed with the Secretary of State and verified at least ten days before the beginning of a session of the General Assembly in order to be considered during that session. (Sessions begin annually on the first Monday in January.) The General Assembly then has four months to enact the statute as it was proposed, enact the statute in a modified form, or take no action. If the General Assembly enacts the statute in some form, that law is subject to the referendum.

If the General Assembly does not enact the statute in the form in which it was proposed, the petitioners may place the proposal on the ballot by filing a second petition with the Secretary of State that meets the requirements described above. The petition must be filed not later than 90 days after the General Assembly rejects the statute or, if the General Assembly takes no action, 90 days after the expiration of the four-month deadline. The petitioners may propose the same statute as in the previous petition or may incorporate any amendments made by the General Assembly or by either chamber during the legislative process. If the petition is valid, the proposal must be placed on the ballot at the next general election held at least 125 days after the second petition is filed.<sup>7</sup>

Compared to initiated constitutional amendments, initiated statutes rarely appear on the ballot. Only 12 initiated statutes have been submitted to the voters, and of those, three passed. Several other initiated statutes have been presented to the General Assembly and then were enacted, as in at least two cases, or were lost in the legislature but never placed on the ballot.

### Statutes placed on the ballot by the General Assembly

The Ohio Constitution generally prohibits the legislature from placing laws on the ballot for approval by the voters. However, the General Assembly may do so in the case of laws relating to public schools. The General Assembly has placed such an issue on the ballot once, in 1998; it failed.<sup>8</sup>

## Referendum

The right of referendum is the right to prevent a law passed by the General Assembly from taking effect by circulating a petition and then placing the law on the ballot for approval or

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<sup>7</sup> Ohio Const., art. II, secs. 1b, 1e, and 1g. See also *Cappelletti v. Celebrezze*, 58 Ohio St.2d 395 (1979) and *State ex rel. Hodges v. Taft*, 64 Ohio St.3d 1 (1992).

<sup>8</sup> Ohio Const., art. II, sec. 26; *State ex rel. Taft v. Franklin County Court of Common Pleas*, 81 Ohio St.3d 480 (1998); and H.B. 697 of the 122<sup>nd</sup> General Assembly.

rejection by the voters. In general, new Ohio laws take effect 90 days after the Governor files them with the Secretary of State in order to give the electors time to circulate a referendum petition. However, the Ohio Constitution exempts three categories of laws from the referendum, and specifies that they take effect immediately:

- Laws providing for tax levies;
- Appropriations for the current expenses of the state government and state institutions;
- Emergency laws necessary for the immediate preservation of the public peace, health, or safety. Emergency laws require the affirmative vote of  $\frac{2}{3}$  of the members of each chamber of the General Assembly.

Except for those types of laws, the electors may refer any law, any section of any law, or any item in any law appropriating money (other than the appropriation itself). To refer a law, the petitioners must file a petition with the Secretary of State that is signed by 6% of the electors, based on the most recent vote for Governor (as of the 2022 election, 248,047 signatures of registered electors). Those signatures must include part-petitions from half of the counties of the state (44 counties), signed by not less than 3% of the electors of that county. The petition must be filed within 90 days after the Governor files the law in the Office of the Secretary of State. If the petition is valid, the issue must appear on the ballot at the next general election held at least 125 days after the petition is filed.<sup>9</sup>

Since 1912, 13 laws passed by the General Assembly have been placed on the ballot by referendum petition. Of those, only two were approved to take effect.

## **Petition requirements, generally**

This section provides an overview of the process for submitting initiative and referendum petitions, but it does not include every legal requirement that might apply. A group that plans to circulate an initiative or referendum petition may wish to seek guidance from a private attorney.

### **Initial steps**

A group of electors who seek to circulate an initiative or referendum petition must designate a committee of three to five persons to represent the petitioners. The committee then must gather the signatures of 1,000 registered electors on an initial petition and submit it to the Attorney General, along with a copy of the proposed statute or constitutional amendment or the law to be referred and a summary of it. The initial petition must pass multiple levels of scrutiny:

- The Attorney General must determine whether the summary is a fair and truthful statement of the measure.
- In the case of an initiative petition, the Ohio Ballot Board must determine whether it contains only one proposed law or constitutional amendment, so that the voters may vote on each proposal separately. If it contains more than one proposal, the Board must divide the measure into individual proposals, and the petitioners must submit new

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<sup>9</sup> Ohio Const., art. II, secs. 1c and 1g.

summaries to the Attorney General for each individual proposal. Each proposal requires its own initiative petition.

- The Secretary of State and the boards of elections must determine whether the signatures on the initial petition are valid.

If the Attorney General certifies that the initial petition has passed each of those steps, the committee may go on to circulate the initiative or referendum petition.<sup>10</sup>

### **Form of petition**

The Revised Code outlines a number of requirements for the form of an initiative or referendum petition. Among other elements, the petition must include the text of the measure, space for qualified electors to sign their names and provide required information, a certification statement by the circulator of the petition, and information regarding the penalty for election falsification. Each part-petition must contain signatures of electors of only one county.<sup>11</sup>

### **Petition verification**

When an initiative or referendum petition is filed with the Secretary of State, the Secretary must immediately separate the part-petitions by county and transmit them to the appropriate boards of elections for verification. The standards for verification include whether each signer is registered to vote in the county, whether the signatures are genuine, whether any person signed more than once, and whether the petition papers include all of the required information, including the circulator's statement. The Secretary of State must determine the sufficiency of the petitions by the 105<sup>th</sup> day before election day.

The petition committee, a petition circulator, or any other elector may file a protest against the findings of a board of elections with respect to a part-petition by the 95<sup>th</sup> day before election day. The Ohio Supreme Court has exclusive jurisdiction over such challenges and must issue a ruling by the 85<sup>th</sup> day before election day.<sup>12</sup>

### **Insufficient petitions**

If an initiative or referendum petition does not have enough valid signatures, the committee is allowed an additional ten days to file a supplementary petition with signatures of electors who did not sign the original petition. The committee may collect those signatures only during that ten-day period. The Secretary of State must determine the sufficiency of those additional signatures by the 65<sup>th</sup> day before election day. Any challenge to the additional signatures must be filed by the 55<sup>th</sup> day before election day, and the Court must hear and rule on any challenges by the 45<sup>th</sup> day before election day.<sup>13</sup>

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<sup>10</sup> R.C. 3505.062(A), 3519.01, and 3519.02. The Attorney General maintains a [list of initial petitions submitted for approval since 2006](#), available on the Attorney General's website under "Ballot Initiatives" at [ohioattorneygeneral.gov](http://ohioattorneygeneral.gov).

<sup>11</sup> Ohio Const., art. II, secs. 1a and 1g and R.C. 3519.05 and 3519.10.

<sup>12</sup> Ohio Const., art. II, secs. 1a, 1b, and 1g and R.C. 3501.38, 3501.382, 3519.06, 3519.15, and 3519.16.

<sup>13</sup> Ohio Const., art. II, sec. 1g and R.C. 3519.16.



## Ballot language and advertising

The Ohio Ballot Board prescribes the ballot language for any proposed statute, constitutional amendment, or referendum. The ballot language must properly identify the substance of the measure, but it is not required to contain the full text. The Board also must prepare an explanation of the measure, which may include its purpose and effects. Meanwhile, the Secretary of State determines the order in which statewide issues appear on the ballot and prepares the ballot title for each issue, which must be a true and impartial statement that is not likely to create prejudice for or against the measure. The petitioners may submit a suggested ballot title, to which the Secretary must give full consideration.

The full text of the measure, along with the ballot language and brief arguments or explanations for and against the measure, 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.<sup>14</sup>

## Election process and results

Any proposed statute or constitutional amendment must be approved by a majority of the electors voting on it in order to take effect. If conflicting proposed statutes or constitutional amendments are approved at the same election by a majority vote, the proposal receiving the highest number of affirmative votes is adopted.

Initiated measures take effect 30 days after the election, while constitutional amendments proposed by the General Assembly take effect on the date specified in the joint resolution, which may be immediately upon approval. In the case of a referendum, if the voters approve the law, it takes effect upon approval, unless the law specifies a later effective date.<sup>15</sup>

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<sup>14</sup> Ohio Const., art. II, sec. 1g and art. XVI, sec. 1 and R.C. 3505.01, 3505.061, 3505.062, 3505.08, 3519.16, and 3519.21.

<sup>15</sup> Ohio Const., art. II, secs. 1b, 1c, and 1g.