

IN THE SUPREME COURT OF OHIO

State of Ohio *ex rel.* One Person One Vote

545 East Town Street
Columbus, OH 43215

State of Ohio *ex rel.* Jeniece Brock

1463 Apple Court
Akron, OH 44306

State of Ohio *ex rel.* Brent Edwards

4504 Whetsel Avenue
Cincinnati, OH 45227

and

State of Ohio *ex rel.* Christopher Tavenor

1137 King Avenue
Columbus, OH 43212

Relators,

v.

Ohio Ballot Board

22 North Fourth Street, 16th Floor
Columbus, OH 43215

**Frank LaRose, in his official capacities as
Chair of the Ohio Ballot Board and Ohio
Secretary of State**

22 North Fourth Street, 16th Floor
Columbus, OH 43215

**Senator Theresa Gavarone, in her official
capacity as Member of the Ohio Ballot Board**

1 Capitol Square, 1st Floor 138
Columbus, OH 43215

**Senator William DeMora, in his official
capacity as Member of the Ohio Ballot Board**

1 Capitol Square, Ground Floor 052
Columbus, OH 43215

Case No. _____

Original Action in Mandamus Pursuant to
Article XVI, Section 1 of the Ohio
Constitution

Expedited Election Case Pursuant to
Supreme Court Rule of Practice 12.08

Peremptory and Alternative Writs
Requested

**William Morgan, in his official capacity as
Member of the Ohio Ballot Board**

8740 Stoutsville Pike
Stoutsville, OH 43154

and

**Representative Elliot Forhan, in his official
capacity as Member of the Ohio Ballot Board**

77 S. High Street, 10th Floor
Columbus, OH 43215

Respondents.

**VERIFIED COMPLAINT UNDER ARTICLE XVI, SECTION 1 OF THE OHIO
CONSTITUTION AND FOR WRIT OF MANDAMUS**

David R. Fox (PHV Pending)
Emma Olson Sharkey (PHV Pending)
Jyoti Jasrasaria (PHV Pending)
Samuel T. Ward-Packard (PHV Pending)
ELIAS LAW GROUP LLP
250 Massachusetts Ave. NW, Ste. 400
Washington, DC 20002
dfox@elias.law
eolsonsharkey@elias.law
jjasrasaria@elias.law
swardpackard@elias.law
T: (202) 968-4490
F: (202) 968-4498

Dave Yost (0056290)
OHIO ATTORNEY GENERAL
30 E. Broad Street
Columbus, OH 43215
T: (614) 466-2872
F: (614) 728-7592

Counsel for Respondents

Donald J. McTigue (0022849)*
**Counsel of Record*
Katie I. Street (0102134)
MCTIGUE & COLOMBO LLC
545 East Town Street
Columbus, OH 43215
dmctigue@electionlawgroup.com
kstreet@electionlawgroup.com
T: (614) 263-7000
F: (614) 368-6961

Counsel for Relators

This original action under Article XVI, Section 1 of the Ohio Constitution and in mandamus is brought in the name of the State of Ohio on the relation of One Person One Vote, Jeniece Brock, Brent Edwards, and Christopher Tavenor (collectively, “Relators”). Senate Joint Resolution Number 2 submits to the people of Ohio an amendment to the Ohio Constitution that would drastically alter several of the requirements that the people must meet to amend the Ohio Constitution. The ballot language adopted by the Ohio Ballot Board and the ballot title adopted by the Secretary of State to describe that amendment violate legal standards established by the Revised Code and the Constitution, and repeatedly enunciated by this Court over the past fifty years. Relators therefore request that the Court issue writs of mandamus directing the Ballot Board to reconvene and adopt ballot language that properly and lawfully describes the amendment, or, in the alternative, adopt the full text of the Amendment as the ballot language; and directing Secretary LaRose to adopt a ballot title that properly and lawfully describes the amendment.

INTRODUCTION

1. This is Relators’ second original action involving Amended Substitute Senate Joint Resolution No. 2 (“S.J.R. 2”), which seeks to hamstring Ohio’s democracy by amending the Constitution to increase the popular vote threshold to adopt constitutional amendments from a simple majority to a sixty percent supermajority (“the Amendment”). [Exhibit 1.] The Amendment also imposes new constraints on constitutional amendment initiative petitions—eliminating a petitioner’s right to cure a petition found to lack sufficient signatures by adding supplemental signatures and doubling the number of counties from which a minimum number of signatures must be collected. In each case, the Amendment would significantly alter provisions governing the people’s ability to amend the Ohio Constitution, which date back to and have been in force for over a hundred years—since the constitutional convention of 1912.

2. Relators’ first original action, *State ex rel. One Person One Vote, et al., v. LaRose*,

No. 2023-0630, challenges S.J.R. 2’s submission of the Amendment to the voters at an August 8, 2023, special election, in violation of the Revised Code. That action remains pending.¹

3. This second original action involves a different issue: the decision by Secretary of State Frank LaRose and the Ballot Board he chairs to adopt a misleading, prejudicial ballot title and inaccurate, incomplete ballot language that improperly favor the Amendment in flagrant violation Ohio’s Constitution and laws and this Court’s jurisprudence.

4. For more than a century, the people of Ohio have “reserve[d] to themselves the power ... independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls” by a simple majority vote. Ohio Constitution, Article II, Section 1.

5. Changes like the Amendment that make it harder for the people to amend their constitution are unpopular with voters. Similar measures failed in South Dakota and Arkansas when voters rejected them during primary and general elections in 2022.

6. Apparently not confident that the Amendment’s submission at an illegal, low-turnout special election will be enough to get it over the line, Secretary LaRose and the Ballot Board adopted ballot language and a ballot title calculated to mislead voters about what the Amendment does.

7. The Ballot Board’s adopted ballot language is rife with material omissions and misleading statements. Most notably, the ballot language does not ever make clear that the sixty percent threshold to adopt amendments is a *change* from the current simple majority requirement. As a consequence, a voter might take the ballot language to mean that the people of Ohio do not

¹ Relators bring this new action as a separate proceeding because the factual basis for it—Respondents’ decision to adopt a misleading, prejudicial ballot title and inaccurate, incomplete ballot language—had not yet occurred when Relators filed the first action, and because the first action is already nearly fully briefed under Supreme Court Rule of Practice 12.08.

presently get to vote on proposed amendments *at all*, and might even understand the Amendment itself to create that right in the first instance. Such a blatantly misleading omission contravenes fifty years of this Court’s precedents.

8. The ballot language also misleadingly suggests that the Amendment will “specify” that amendment initiative petitioners may not cure defective petitions, when in truth the Amendment would strip them of that existing constitutional right.

9. And the ballot language’s description of the proposed change to the petition signature requirement does not clear even the minimal bar of factual accuracy. The ballot language suggests that initiative petitions will need to collect signatures from at least five percent of “eligible voters” in each county. The Amendment, however, would require signatures from at least five percent of “the total number of votes cast for the office of governor at the last preceding election.” This is a considerable difference—amounting in Hamilton County, for example, to a difference of nearly 15,000 signatures using 2022 figures.

10. In addition, Secretary LaRose’s chosen ballot title, characterizing the Amendment as “elevating the standards to qualify for and to pass any amendment,” is inaccurate, biased and argumentative. It both misleads voters as to the Amendment’s scope and seeks to prejudice them in its favor, rather than providing the “true and impartial” description the law requires.

11. This Court should not allow the Ballot Board or Secretary LaRose to mislead the people about the substance of such an important constitutional change. It should grant the writs.

NATURE OF THE ACTION AND JURISDICTION

12. This is an original action commenced under Article XVI, Section 1 and Article IV, Section 2(B)(1)(b) of the Ohio Constitution and Chapter 2731 of the Ohio Revised Code.

13. The ballot language adopted by the Ohio Ballot Board to describe the Amendment is unlawful, as is the ballot title adopted by Secretary LaRose. Accordingly, Relators seek writs of

mandamus directing Respondents the Ballot Board and Secretary LaRose to replace the adopted ballot language and title with language and a title that properly and lawfully describe the Amendment.

14. This Court has jurisdiction over this action under Article IV, Section 2(B)(1)(b), which gives the Court original jurisdiction in mandamus actions, and under Article XVI, Section 1, which gives the Court original and exclusive jurisdiction in all cases “challenging the adoption or submission of a proposed constitutional amendment to the electors.”

15. Relators affirmatively allege that they have acted with the utmost diligence, that there has been no unreasonable delay or lapse of time in asserting their rights, and that there is no prejudice to Respondents. Specifically, the Ballot Board and the Secretary adopted the ballot language and title on May 18, 2023, and this action is being filed on May 23, 2023, just three business days after the ballot language and title were adopted and well in advance of the 64th day before the August 8, 2023, special election, in accordance with Article XVI, Section 1 of the Ohio Constitution.

16. Because this action is being filed fewer than 90 days before August 8, 2023, it is an expedited election case subject to the schedule set out in Supreme Court Rule of Practice 12.08.

PARTIES

17. Relator One Person One Vote is an Ohio corporation operating under Section 501(c)(4) of the Internal Revenue Code. One Person One Vote represents Ohio electors and taxpayers who oppose the Amendment and is organizing a campaign against the Amendment.

18. One Person One Vote proposed ballot language and a ballot title at the Ballot Board’s May 18, 2023, meeting, but the Ballot Board and Secretary did not adopt its proposed language or title.

19. One Person One Vote is injured by the adopted ballot language because it is

incomplete and misleading.

20. One Person One Vote is injured by the adopted ballot title because it is not true or impartial and will create prejudice in favor of the Amendment.

21. As a consequence of the incomplete, inaccurate ballot language and the misleading, prejudicial title, One Person One Vote will have to expend additional resources to educate voters about the Amendment's scope and effects in connection with its efforts to encourage voters to oppose the Amendment.

22. Relators Jeniece Brock, Brent Edwards, and Christopher Tavenor are residents and qualified electors of the State of Ohio who oppose the Amendment and intend to vote and organize against it.

23. Relators Brock, Edwards, and Tavenor will be injured if the Amendment is submitted to the people using the adopted ballot language and title, both as Ohio electors and taxpayers and as Ohio citizens who are organizing against the Amendment.

24. Respondents are the Ohio Ballot Board and its five members: Secretary of State Frank LaRose (the Chair), Senator Theresa Gavarone, Senator William DeMora, William Morgan, and Representative Elliot Forhan. The Ohio Ballot Board is the body charged by law with prescribing the ballot language for constitutional amendments submitted to the electors.

25. Respondent LaRose is also named in his capacity as Secretary of State. In that role, he is Ohio's chief election officer and is charged by law with prescribing the ballot title for constitutional amendments submitted to the electors.

LEGAL BACKGROUND

26. The Ohio Constitution and the Revised Code set the procedural and substantive requirements for ballot language and titles for proposed constitutional amendments.

27. Article XVI, Section 1 of the Ohio Constitution provides that "the ballot language

for ... proposed amendments shall be prescribed by a majority of the Ohio ballot board.”

28. Article XVI, Section 1 further provides that the ballot language “shall properly identify the substance of the proposal to be voted upon,” but that the ballot “need not contain the full text nor a condensed text of the proposal.” Ballot language “shall not be held invalid unless it is such as to mislead, deceive, or defraud the voters.”

29. Similarly, Section 3505.062(B) of the Revised Code requires the Ballot Board to “[p]rescribe the ballot language for constitutional amendments proposed by the general assembly to be printed on the questions and issues ballot, which language shall properly identify the substance of the proposal to be voted upon.”

30. Section 3519.21 of the Revised Code provides that the Secretary shall determine “the ballot title of all ... propositions, issues, or questions ... in case of propositions to be voted upon in a district larger than a county.”

31. Section 3519.21 further provides that in preparing the ballot title, the Secretary “shall give a true and impartial statement of the measures in such language that the ballot title shall not be likely to create prejudice for or against the measure.”

FACTS

1. The General Assembly adopted S.J.R. 2, submitting a constitutional amendment to the electors.

32. The General Assembly adopted S.J.R. 2 on May 10, 2023, and filed it with Secretary LaRose that evening. [Exhibit 1.]

33. S.R.J. 2 submits to the electors of the state an amendment to Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Ohio Constitution.

34. If ratified, the Amendment would make three changes to Ohio’s constitutional processes governing future amendments.

35. First, the Amendment would increase the threshold for ratification of future amendments by the people of Ohio from a simple majority to sixty percent.

36. Second, the Amendment would increase the number of counties from which a minimum number of signatures must be collected upon a constitutional amendment initiative petition from one-half of the state's counties to all counties.

37. Third, the Amendment would eliminate amendment initiative petitioners' opportunity to cure a petition found insufficient by filing additional signatures.

38. S.J.R. 2 provides that upon ratification, the increased threshold shall go into force immediately.

39. S.J.R. 2 provides that the proposed Amendment shall be submitted to the electors at a special election on August 8, 2023, and purports to call such an election "pursuant to the authority provided by Section 1 of Article XVI." Relators in this action are challenging that election date's validity in a separate mandamus action, filed on May 12. *See State ex rel. One Person One Vote, et al., v. LaRose*, No. 2023-0630.

2. The Ohio Ballot Board prescribed incomplete and misleading ballot language to describe the Amendment.

40. The Ballot Board met to prescribe and certify the ballot language for the Amendment on May 18, 2023.

41. At the outset, the Ballot Board's secretary advised the Board of its substantive obligations, explaining that the language "must properly identify the substance of the proposal to be voted on" and that, "[i]f a condensed version of the proposal is used, the ballot language must not omit substance of a proposal that is material" or "result in or imply a persuasive argument."

[Exhibit 2.]

42. Secretary LaRose then explained that the Ballot Board's staff had prepared and

circulated draft ballot language. [Exhibit 2.] That language is as follows:

**Issue 1
Proposed Constitutional Amendment**

**Proposed by Joint Resolution of the General Assembly
To amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the
Constitution of the State of Ohio**

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Require that any proposed amendment to the Constitution of the State of Ohio receive the approval of at least 60 percent of eligible voters voting on the proposed amendment.
- Require that any initiative petition filed on or after January 1, 2024 with the Secretary of State proposing to amend the Constitution of the State of Ohio be signed by at least five percent of the eligible voters of each county in the state.
- Specify that additional signatures may not be added to an initiative petition filed with the Secretary of State on or after January 1, 2024 proposing to amend the Constitution of the State of Ohio.

If passed, the amendment shall be effective immediately.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	

[Exhibit 3.]

43. During the public comment period, Attorney Don McTigue, counsel to Relators in the present action, identified several evident shortcomings in the proposed language.

44. Attorney McTigue noted the omission of any details about the constitutional status quo. “[N]one of the bullet points explain what the current constitutional provision is. So ... it’s not telling the voters what change they’re being asked to make.” [Exhibit 2.]

45. Board member and State Representative Elliot Forhan criticized the same omissions, analogizing to a municipal zoning change. “You wouldn’t ask ... a subdivision or a municipality to approve a change in the zoning law if you didn’t explain to them exactly what the change in the zoning was,” he explained. “[O]ur state supreme court said, something of this nature

has a far greater effect than a change in the zoning law.” [Exhibit 2.]

46. Attorney McTigue also pointed out that the language describing the signature requirement for amendment petitions was flatly incorrect. “[T]he statement about [] at least 5 percent of the eligible voters of each county is actually not accurate,” he explained. “It’s 5 percent of the most recent gubernatorial vote in that county.” [Exhibit 2.]

47. Remarkably, Secretary LaRose *agreed* after the meeting that the language describing the signature requirement was inaccurate, confirming that “[t]here is a difference between 5% of all eligible voters and 5% of the most recent gubernatorial election.” Yet LaRose defended the misstatement on the ground that “putting a ton of words on the actual ballot is confusing to people in and of itself.” [Exhibit 4.]

48. On behalf of One Person One Vote, Attorney McTigue proposed alternative ballot language that would have avoided the first proposal’s numerous defects. [Exhibit 2.] That proposal read:

Proposed Constitutional Amendment

Proposed by Am. Sub. Senate Joint Resolution Number 2 of the General Assembly.

A majority affirmative vote is necessary for the amendment to pass.

Amended Substitute Senate Joint Resolution Number 2 proposes to amend Sections 1b, 1e and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio as follows:

1. Require that all amendments to the Ohio Constitution proposed by citizen Initiative Petition, Joint Resolution of the General Assembly, or Constitutional Convention be approved by a supermajority of at least 60% of the electors voting on the amendment. Since 1912, the Ohio Constitution has required a simple majority vote of 50% + 1.
2. Repeal the 10-day period for citizens to file supplemental signatures after the state has determined that there is a deficiency in the number of validated signatures submitted by a citizen Initiative Petition proposing an amendment to the Ohio Constitution. The 10-day cure period has been part of the Constitution since 1912.

3. Increase from 44 to 88 counties the requirement that a citizen Initiative Petition proposing an amendment to the Ohio Constitution contain signatures of electors equal to 5% of the total vote for governor in each county. The 44-county provision has been part of the Constitution since 1912.

If passed, the Amendment will take effect immediately.

[Exhibit 5.]

49. The Ballot Board voted 3-to-2 to adopt the language introduced by Secretary LaRose.

3. Secretary LaRose prescribed a prejudicial title for the Amendment.

50. The proposed ballot text that Secretary LaRose circulated at the meeting included the following ballot title for the Amendment:

**ELEVATING THE STANDARDS TO QUALIFY FOR AND TO PASS ANY
CONSTITUTIONAL AMENDMENT**

[Exhibit 3.]

51. Attorney McTigue pointed out that to the average reader, “elevating” is a “positive [] modifying term,” and so was likely to create unlawful prejudice in favor of the Amendment.

52. On behalf of One Person One Vote, Attorney McTigue proposed a much more descriptive, less prejudicial title:

**TO REQUIRE THAT AMENDMENTS TO THE OHIO CONSTITUTION BE
APPROVED BY AT LEAST 60% OF THE ELECTORS VOTING ON THE
AMENDMENT AND TO INCREASE REQUIREMENTS FOR AMENDMENTS
PROPOSED BY INITIATIVE PETITION**

[Exhibit 5.]

53. Attorney McTigue also suggested that the Secretary could replace “elevate” with “change” or “modify.” [Exhibit 2.]

54. Secretary LaRose nonetheless prescribed his proposed title.

55. After the meeting, Secretary LaRose defended his choice of the term “elevating”

on the ground that it “means to raise or increase. That’s the first definition in the Webster’s dictionary.” [Exhibit 4.]

COUNT I – ARTICLE XVI AND MANDAMUS
Against the Ballot Board

56. Relators restate and incorporate by reference all prior paragraphs as though fully set forth in this paragraph.

57. The ballot language prescribed by the Ballot Board at its May 18 meeting violates the Constitution and the laws of the State of Ohio.

58. Under Article XVI, Section 1, of the Constitution and Section 3505.062(B) of the Revised Code, the ballot language must “properly identify the substance of the proposal to be voted upon.” And Article XVI specifies that it may not be “such as to mislead, deceive, or defraud the voters.”

59. This Court has adopted a “three-part test” for evaluating the propriety of ballot language for a proposed constitutional amendment: (i) a voter has the right to know what it is he or she is being ask to vote upon; (ii) language in the nature of a persuasive argument in favor of or against the issue is prohibited; and (iii) the determinative issue is whether the cumulative effect of the technical defects in the ballot language is harmless or fatal to the validity of the ballot. *State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St.3d 257, 2012-Ohio-419, 978 N.E.2d 119, ¶ 26.

60. The Court has long recognized that ballot language marred by material omissions flunks the foregoing test. *Id.* ¶¶ 27–32. “[Ballot language] ought to be free from any misleading tendency, whether of amplification, or omission.” *Markus v. Trumbull Cnty. Bd. of Elections*, 22 Ohio St.2d 197, 203, 259 N.E.2d 501 (1970). And ballot language that fails to “convey an intelligent idea of the scope and import of the amendment” is invalid. *Id.* at 202–03.

61. The ballot language adopted by the Ballot Board at its May 18 meeting contains

several material omissions that render it misleading and incomplete, such that it fails to properly convey “the scope and import” of the Amendment.

62. The adopted ballot language omits any mention of the simple majority threshold to adopt constitutional amendments that applies in the pre-Amendment status quo. It states only that the Amendment would require that “any proposed amendment to the Constitution of the State of Ohio receive the approval of at least 60 percent of eligible voters voting on the proposed amendment.” An elector reading that language might reasonably assume that the Constitution does not presently require that constitutional amendments receive the approval of Ohio’s voters *at all*. Such a voter would likely understand the Amendment itself to *create* the people’s right to participate in the process of ratifying amendments. Other electors might mistakenly think that a percentage higher than sixty percent is currently required and therefore wrongly conclude that the Amendment makes it *easier* to amend the Constitution. This profoundly misleading omission would be fatal to the adopted ballot language even if it were the only defect.

63. The adopted language also omits any mention of the status quo requirement that an initiative petition must collect a minimum number of signatures from “one-half of the counties of the state.” It states only that the Amendment would require that initiative petitions “be signed by at least five percent of the eligible voters of each county in the state.” As with the threshold language, an elector reading that language might reasonably assume that the Constitution does not presently require that *any* signatures or any set number of signatures be collected to propose a constitutional amendment. And even voters who assume that some signatures are required will not necessarily know that they must be from multiple counties, much less understand the specific requirements under existing law. Without such information voters are not able to assess what they are being asked to vote upon.

64. The ballot language related to the change in the petition requirement is not only incomplete, but factually inaccurate. If adopted, the Amendment would add a new clause to Article II, Section 1g—in what would become Division (E)—providing that “upon an initiative petition proposing an amendment to the constitution, it shall be necessary to file from each county of the state petitions bearing the signatures of not less than five per cent of the *electors* of the county.” (Emphasis added). And, as amended, Division (I) of the same Section would keep the basis for determining the required number of elector signatures the same: “the total number of *votes cast for the office of governor* at the last preceding election therefore.” *Compare* [Exhibit 1 at 3] (emphasis added), *with* Ohio Constitution, Article II, Section 1g. Yet the Ballot Board’s chosen language suggests that a petition must be signed by “at least five percent of the *eligible voters* of each county in the state.” (Emphasis added.) The ballot language thus plainly misstates one of the Amendment’s effects—as Secretary LaRose himself acknowledged.

65. The adopted ballot language related to the Amendment’s abolishing an initiative petitioner’s opportunity to cure a petition found to lack sufficient signatures by submitting additional signatures is also fatally flawed. It suggests that the Amendment would “[*s*]pecify that additional signatures may not be added to an initiative petition ... proposing to amend the Constitution of the State of Ohio.” (Emphasis added.) To “specify” means “to name or state explicitly or in detail.” *Specify*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/specify> (last updated May 22, 2023). The most natural inference from the Ballot Board’s choice of phrase is that the Constitution currently does *not* specify whether “additional signatures” may be added to cure a defective petition. That implication is false—it specifies that they are permitted. Moreover, the ballot language does not convey that the Constitution provides a cure period to file additional signatures, or that it is ten days. This

information is necessary for electors to assess the changes they are being asked to vote upon.

66. Finally, all three bullets in the adopted ballot language omit the extraordinary longevity of the constitutional provisions the Amendment seeks to alter. Each dates to Ohio's constitutional convention of 1912.

67. The cumulative effect of all these defects is to render the ballot language adopted on May 18 invalid under Article XVI, Section 3505.062(B), and this Court's jurisprudence.

68. This Court will grant a writ of mandamus when a relator establishes (i) a clear legal right to the requested relief, (ii) a clear legal duty on the part of the respondent to provide it, and (iii) the lack of an adequate remedy in the ordinary course of law.

69. Relators have a clear legal right to the requested relief because the ballot language prescribed by the Ballot Board at its May 18 meeting violates the express requirements of the above provisions of the Ohio Constitution and the Revised Code.

70. Respondents the Ballot Board and its members have a clear legal duty to provide the requested relief because they have a mandatory duty under Article XVI and Section 3505.062(B) to prescribe lawful ballot language. Thus far, they have abused their discretion and acted in clear disregard of applicable law and their legal duty.

71. Relators lack an adequate remedy at law because this Court has original and exclusive jurisdiction of the subject matter of the action and has long treated mandamus as the only available remedy when an elector seeks to challenge the form in which a ballot issue is to be submitted.

COUNT II – ARTICLE XVI AND MANDAMUS
Against Secretary LaRose

72. Relators restate and incorporate by reference all prior paragraphs as though fully set forth in this paragraph.

73. The ballot title prescribed by Secretary LaRose at the Ballot Board’s May 18 meeting—“Elevating the standards to qualify for and to pass any constitutional amendment”—violates the laws of the State of Ohio.

74. Under Section 3519.21 of the Revised Code, the ballot title must be “true and impartial” and not likely to “create prejudice for or against the measure.”

75. Secretary LaRose’s designated title is not “true” because it creates a false impression about the Amendment’s effects. The Amendment’s all-counties requirement for petitions and the changes to the cure process do not apply to amendments proposed by the General Assembly or by a constitutional convention. The Amendment therefore does nothing to change the standards by which amendments proposed by the General Assembly or by a constitutional convention “qualify for” submission to the voters. Contrary to Secretary LaRose’s title, the Amendment therefore does not “[e]levat[e] the standards to qualify for ... *any* constitutional amendment.” (Emphasis added.) It changes the qualifying standards only for citizen-initiated amendments.

76. In addition, Secretary LaRose’s designed title is not impartial because it will create prejudice in favor of the Amendment.

77. Specifically, the phrase “elevating the standards” implies that Ohio’s standards to amend its Constitution are currently too low. Secretary LaRose had several far more impartial options available to him—such as “change” or “modify”—yet settled on a title that will strongly suggest that the Amendment is desirable to at least some voters.

78. Secretary LaRose defended his choice of “elevating” on the ground that the first dictionary definition of “elevate” is to “raise or increase.” [Exhibit 4.] But when used as a transitive verb, the word “elevate” carries other meanings as well and therefore conveys a clear meaning of

improvement: its definitions include “to raise in rank or status” and “to improve morally, intellectually, or culturally.” *Elevate*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/elevate> (last accessed May. 23, 2023). If Secretary LaRose wanted to convey that the Amendment raises the standards for proposed amendments, he should have used a word like “raising,” “increasing,” or “heightening,” which convey the same meaning Secretary LaRose says he sought to express, but without the same strongly positive, prejudicial connotation that “elevating” carries.

79. These defects render the current ballot title a clear violation of Section 3519.21.

80. This Court will grant a writ of mandamus when a relator establishes (i) a clear legal right to the requested relief, (ii) a clear legal duty on the part of the respondent to provide it, and (iii) the lack of an adequate remedy in the ordinary course of law.

81. Relators have a clear legal right to the requested relief because the ballot title prescribed by Secretary LaRose at the May 18 meeting violates the express requirements of Section 3519.21.

82. Respondent Secretary LaRose has a clear legal duty to provide the requested relief because he has a mandatory duty under Section 3519.21 to prescribe a lawful ballot title. Thus far, he has abused his discretion and acted in clear disregard of applicable law and his legal duty.

83. Relators lack an adequate remedy at law because this Court has original and exclusive jurisdiction of the subject matter of the action and has long treated mandamus as the only available remedy when an elector seeks to challenge the form in which a ballot issue is to be submitted.

PRAYER FOR RELIEF

Accordingly, Relators respectfully request that this Court:

A. Issue a peremptory writ of mandamus directing Respondent the Ohio Ballot Board

to reconvene and prescribe lawful ballot language for the Amendment, and providing standards for that language, as follows:

1. The ballot language must fully and accurately describe the status quo that the Amendment would modify, including the simple majority vote threshold for amendments, the petition signature requirements, and the provision for cure of amendment petitions;

2. The ballot language must accurately characterize and explain the definition of “electors” underlying the petition signature requirements;

3. The ballot language must specify that the provisions to be amended have been part of the Ohio Constitution in their current form since 1912;

4. Or, in the alternative, the full text of the proposed amendment may be adopted as the ballot language;

B. Issue a peremptory writ of mandamus directing Respondent Secretary LaRose to prescribe a lawful ballot title for the Amendment, meaning that the title must not use words or phrases that are likely to mislead electors about the Amendment’s scope or create prejudice in favor of the Amendment.

C. In the alternative, if the Court requires further evidence or briefing on either or both claims, issue an alternative writ or writs of mandamus and order an expedited briefing schedule on the same;

D. Retain jurisdiction of this action pursuant to Revised Code Section 2731.16, and render any and all further orders that the Court may from time to time deem appropriate, including, but not limited to, determining the validity of any new ballot language prescribed by the Ohio Ballot Board or ballot title prescribed by Secretary LaRose; and

E. Grant such other or further relief the Court deems appropriate, including, but not limited to, an award of Relators' reasonable costs.

Respectfully submitted,

/s/ Donald J. McTigue
Donald J. McTigue (0022849)
Counsel of Record
Katie I. Street (0102134)
MCTIGUE & COLOMBO LLC
545 East Town Street
Columbus, OH 43215
dmctigue@electionlawgroup.com
kstreet@electionlawgroup.com
T: (614) 263-7000
F: (614) 368-6961

David R. Fox (PHV Pending)
Emma Olson Sharkey (PHV Pending)
Jyoti Jasrasaria (PHV Pending)
Samuel T. Ward-Packard (PHV Pending)
ELIAS LAW GROUP LLP
250 Massachusetts Ave. NW, Ste. 400
Washington, DC 20002
dfox@elias.law
eolsonsharkey@elias.law
jjasrasaria@elias.law
swardpackard@elias.law
T: (202) 968-4490
F: (202) 968-4498

Counsel for Relators

Exhibit 1

A JOINT RESOLUTION

Proposing to amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio to require a vote of at least 60% of the electors to approve any constitutional amendment and to modify the procedures for an initiative petition proposing a constitutional amendment.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that a special election is hereby called to be held on August 8, 2023, such election being prescribed pursuant to the authority provided by Section 1 of Article XVI of the Constitution of the State of Ohio, and which election shall be conducted pursuant to all applicable laws, for the purpose of submitting to the electors of the state a proposal to amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio to read as follows:

ARTICLE II

Section 1b. When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided, proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If said proposed law shall be passed by the general assembly, either as petitioned for or in an amended form, it shall be subject to the referendum. If it shall not be passed, or if it shall be passed in an amended form, or if no action shall be taken thereon within four months from the time it is received by the general assembly, it shall be submitted by the secretary of state to the electors for their approval or rejection, if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which supplementary petition must be signed and filed with the secretary of state within ninety days after the proposed law shall have been rejected by the general assembly or after the expiration of such term of four months, if no action has been taken thereon, or after the law as passed by the general assembly shall have been filed by the governor in the office of the secretary of state. The proposed law shall be submitted at the next regular or general election occurring subsequent to one hundred twenty-five days after the supplementary petition is filed in the form demanded by such supplementary petition, which form shall be either as first petitioned for or with any amendment or amendments which may have been incorporated therein by either branch or by both branches, of the general assembly. If a proposed law so submitted is approved by a majority of the electors voting thereon, it shall be the law and shall go into effect as herein provided in lieu of any amended form of said law which may have been passed by the general assembly, and such amended law passed by the general assembly shall not go into effect until and unless the law proposed by supplementary petition shall have been rejected by the electors. All such initiative petitions, last above described, shall have printed across the top thereof, in case of proposed laws: "Law Proposed by Initiative Petition First to be Submitted to the General Assembly." Ballots shall be so printed as to permit an affirmative or negative vote upon each measure submitted to the electors. ~~Any~~

Any proposed law or amendment to the constitution submitted to the electors as provided in 1a and 1b, if approved by a majority of the electors voting thereon, shall take effect thirty days after the election at which it was approved and shall be published by the secretary of state. ~~If Any proposed amendment to the constitution submitted to the electors as provided in sections 1a and 1b of this article,~~

if approved by at least sixty per cent of the electors voting thereon, shall take effect thirty days after the election at which it was approved and shall be published by the secretary of state.

If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by ~~a majority of the total~~ the required number of votes ~~cast for and against the same~~, the one receiving the highest number of affirmative votes shall be the law, or in the case of amendments to the constitution shall be the amendment to the constitution. ~~No~~

No law proposed by initiative petition and approved by the electors shall be subject to the veto of the governor.

Section 1e. (A) The powers defined herein as the "initiative" and "referendum" shall not be used to pass a law authorizing any classification of property for the purpose of levying different rates of taxation thereon or of authorizing the levy of any single tax on land or land values or land sites at a higher rate or by a different rule than is or may be applied to improvements thereon or to personal property.

(B)(1) Restraint of trade or commerce being injurious to this state and its citizens, the power of the initiative shall not be used to pass an amendment to this constitution that would grant or create a monopoly, oligopoly, or cartel, specify or determine a tax rate, or confer a commercial interest, commercial right, or commercial license to any person, nonpublic entity, or group of persons or nonpublic entities, or any combination thereof, however organized, that is not then available to other similarly situated persons or nonpublic entities.

(2) If a constitutional amendment proposed by initiative petition is certified to appear on the ballot and, in the opinion of the Ohio ballot board, the amendment would conflict with division (B)(1) of this section, the board shall prescribe two separate questions to appear on the ballot, as follows:

(a) The first question shall be as follows:

"Shall the petitioner, in violation of division (B)(1) of Section 1e of Article II of the Ohio Constitution, be authorized to initiate a constitutional amendment that grants or creates a monopoly, oligopoly, or cartel, specifies or determines a tax rate, or confers a commercial interest, commercial right, or commercial license that is not available to other similarly situated persons?"

(b) The second question shall describe the proposed constitutional amendment.

(c) If both questions are approved or affirmed by ~~a majority~~ at least sixty per cent of the electors voting on them, then the constitutional amendment shall take effect. If only one question is approved or affirmed by ~~a majority~~ at least sixty per cent of the electors voting on it, then the constitutional amendment shall not take effect.

(3) If, at the general election held on November 3, 2015, the electors approve a proposed constitutional amendment that conflicts with division (B)(1) of this section with regard to the creation of a monopoly, oligopoly, or cartel for the sale, distribution, or other use of any federal Schedule I controlled substance, then notwithstanding any severability provision to the contrary, that entire proposed constitutional amendment shall not take effect. If, at any subsequent election, the electors approve a proposed constitutional amendment that was proposed by an initiative petition, that conflicts with division (B)(1) of this section, and that was not subject to the procedure described in division (B)(2) of this section, then notwithstanding any severability provision to the contrary, that entire proposed constitutional amendment shall not take effect.

(C) The supreme court of Ohio shall have original, exclusive jurisdiction in any action that relates to this section.

Section 1g. (A) Any initiative, supplementary, or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law,

section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution. Each signer of any initiative, supplementary, or referendum petition must be an elector of the state and shall place on such petition after his name the date of signing and his place of residence. A signer residing outside of a municipality shall state the county and the rural route number, post office address, or township of his residence. A resident of a municipality shall state the street and number, if any, of his residence and the name of the municipality or post office address. The names of all signers to such petitions shall be written in ink, each signer for himself. To each part of such petition shall be attached the statement of the circulator, as may be required by law, that he witnessed the affixing of every signature. The secretary of state shall determine the sufficiency of the signatures not later than one hundred five days before the election.

(B) The Ohio supreme court shall have original, exclusive jurisdiction over all challenges made to petitions and signatures upon such petitions under this section. Any challenge to a petition or signature on a petition shall be filed not later than ninety-five days before the day of the election. The court shall hear and rule on any challenges made to petitions and signatures not later than eighty-five days before the election. If no ruling determining the petition or signatures to be insufficient is issued at least eighty-five days before the election, the petition and signatures upon such petitions shall be presumed to be in all respects sufficient.

(C) If the petitions or signatures are a referendum petition or an initiative petition proposing a law is determined to be insufficient, ten additional days shall be allowed for the filing of additional signatures to such petition. No additional signatures may be filed to an initiative petition proposing an amendment to the constitution. If additional signatures are filed, the secretary of state shall determine the sufficiency of those additional signatures not later than sixty-five days before the election. Any challenge to the additional signatures shall be filed not later than fifty-five days before the day of the election. The court shall hear and rule on any challenges made to the additional signatures not later than forty-five days before the election. If no ruling determining the additional signatures to be insufficient is issued at least forty-five days before the election, the petition and signatures shall be presumed to be in all respects sufficient.

(D) No law or amendment to the constitution submitted to the electors by initiative and supplementary petition and receiving ~~an the required number of~~ affirmative majority of the votes east thereon, shall be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same was procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency. ~~Upon~~

(E) Upon all initiative, supplementary, and referendum petitions provided for in any of the sections of this article, it shall be necessary to file from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the electors of such county, except that upon an initiative petition proposing an amendment to the constitution, it shall be necessary to file from each county of the state petitions bearing the signatures of not less than five per cent of the electors of the county. ~~A~~

(F) A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section, or item, submitted to the electors by referendum petition, may be named in such petition and the persons who prepare the argument or explanation, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the same. The person or persons who prepare the argument or explanation, or both, for the law, section,

or item, submitted to the electors by referendum petition, or against any proposed law submitted by supplementary petition, shall be named by the general assembly, if in session, and if not in session then by the governor. The law, or proposed law, or proposed amendment to the constitution, together with the arguments and explanations, not exceeding a total of three hundred words for each, and also the arguments and explanations, not exceeding a total of three hundred words against each, shall be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. ~~The~~

(G) ~~The~~ secretary of state shall cause to be placed upon the ballots, the ballot language for any such law, or proposed law, or proposed amendment to the constitution, to be submitted. The ballot language shall be prescribed by the Ohio ballot board in the same manner, and subject to the same terms and conditions, as apply to issues submitted by the general assembly pursuant to Section 1 of Article XVI of this constitution. The ballot language shall be so prescribed and the secretary of state shall cause the ballots so to be printed as to permit an affirmative or negative vote upon each law, section of law, or item in a law appropriating money, or proposed law, or proposed amendment to the constitution. ~~The~~

(H) ~~The~~ style of all laws submitted by initiative and supplementary petition shall be: "Be it Enacted by the People of the State of Ohio," and of all constitutional amendments: "Be it Resolved by the People of the State of Ohio." ~~The~~

(I) ~~The~~ basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of governor at the last preceding election therefor. ~~The~~

(J) ~~The~~ foregoing provisions of this section shall be self-executing, except as herein otherwise provided. Laws may be passed to facilitate their operation, but in no way limiting or restricting either such provisions or the powers herein reserved.

(K) ~~The requirements of divisions (C) and (E) of this section, as amended by this amendment, apply to initiative petitions proposing constitutional amendments that are filed with the secretary of state on or after January 1, 2024.~~

ARTICLE XVI

Section 1. Either branch of the general assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be filed with the secretary of state at least ninety days before the date of the election at which they are to be submitted to the electors, for their approval or rejection. They shall be submitted on a separate ballot without party designation of any kind, at either a special or a general election as the general assembly may prescribe.

The ballot language for such proposed amendments shall be prescribed by a majority of the Ohio ballot board, consisting of the secretary of state and four other members, who shall be designated in a manner prescribed by law and not more than two of whom shall be members of the same political party. The ballot language shall properly identify the substance of the proposal to be voted upon. The ballot need not contain the full text nor a condensed text of the proposal. The board shall also prepare an explanation of the proposal, which may include its purpose and effects, and shall certify the ballot language and the explanation to the secretary of state not later than seventy-five days before the election. The ballot language and the explanation shall be available for public inspection in the office of the secretary of state.

The supreme court shall have exclusive, original jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors. No such case challenging the ballot language, the explanation, or the actions or procedures of the general assembly in adopting and submitting a constitutional amendment shall be filed later than sixty-four days before the election. The ballot language shall not be held invalid unless it is such as to mislead, deceive, or defraud the voters.

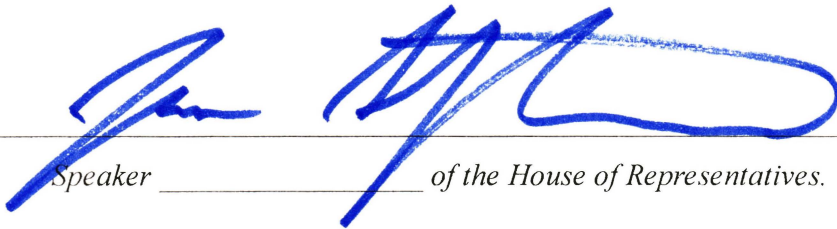
Unless the general assembly otherwise provides by law for the preparation of arguments for and, if any, against a proposed amendment, the board may prepare such arguments.

Such proposed amendments, the ballot language, the explanations, and the arguments, if any, shall be published once a week for three consecutive weeks preceding such election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. The general assembly shall provide by law for other dissemination of information in order to inform the electors concerning proposed amendments. An election on a proposed constitutional amendment submitted by the general assembly shall not be enjoined nor invalidated because the explanation, arguments, or other information is faulty in any way. If ~~the majority~~ at least sixty per cent of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

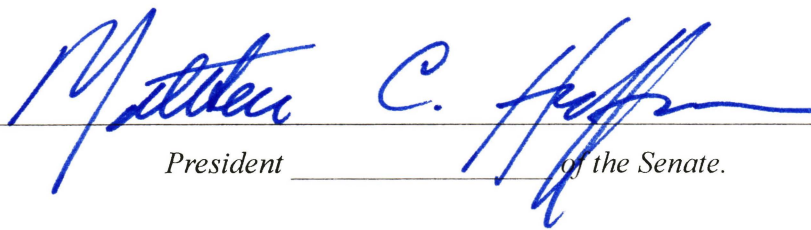
Section 3. At the general election to be held in the year one thousand nine hundred and thirty-two and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution", shall be submitted to the electors of the state; and in case a majority of the electors, voting for and against the calling of a convention, shall decide in favor of a convention, the general assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by ~~a majority~~ at least sixty per cent of those voting thereon.

EFFECTIVE DATE

If adopted by a majority of the electors voting on this proposal, Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio amended by this proposal shall take effect immediately and the existing versions of Sections 1b, 1e, and 1g of Article II and the existing versions of Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio shall be repealed effective immediately.

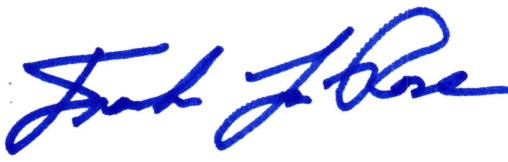


Speaker _____ of the House of Representatives.



President _____ of the Senate.

Adopted may 10, 2023

Received by: 
Secretary of State

2023 MAY 10 PM 7:26

SECRET
ELECTRONIC
RECORDS

(135th General Assembly)
(Am. Sub. S. J. R. No. 2)

A JOINT RESOLUTION

Proposing to amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio to require a vote of at least 60% of the electors to approve any constitutional amendment and to modify the procedures for an initiative petition proposing a constitutional amendment.

Introduced by

Senators McColley, Gavarone

Cosponsors: Senators Antani, Brenner, Cirino, Lang, O'Brien, Reineke, Roegner, Schaffer, Wilkin, Wilson, Hoagland, Huffman, S., Johnson, Reynolds, Romanchuk
Representatives Plummer, Ferguson, Merrin, Stewart, Barhorst, Bird, Carruthers, Claggett, Click, Creech, Cross, Cutrona, Dean, Demetriou, Dobos, Gross, Hall, Hoops, John, Johnson, Kick, King, Klopfenstein, Lear, Manchester, Mathews, McClain, Miller, K., Miller, M., Peterson, Pizzulli, Richardson, Santucci, Schmidt, Stein, Stoltzfus, Swearingen, Thomas, J., Wiggam, Williams, Willis

Adopted by the Senate,

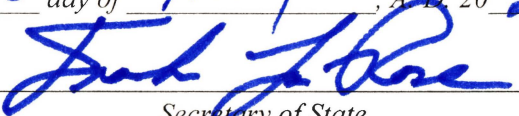
April 19, 2023

Adopted by the House of Representatives,

May 10, 2023

*Filed in the office of the Secretary of State at
Columbus, Ohio, on the*

10 day of May, A. D. 2023


Secretary of State.

(Senate
concerned
in H. Amendments,
May 10, 2023)

Exhibit 2

MEETING OF THE OHIO BALLOT BOARD

PROCEEDINGS

May 18, 2023



PRI COURT
REPORTING

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BEFORE THE OHIO BALLOT BOARD

- - -

PROPOSED CONSTITUTIONAL
AMENDMENT HEARING
REGARDING ISSUE 1

- - -

PROCEEDINGS

Before The Ohio Ballot Board, taken before
Julia Lamb, RPR, CRR, a Notary Public in and for
the State of Ohio, at the Ohio Statehouse, 1
Capitol Square, Senate South Hearing Room,
Second Floor, on May 18, 2023, at 9:45 a.m.

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PROCEEDINGS

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CHAIRMAN LaROSE: Good morning. My name's Frank LaRose and I serve as the Ohio Secretary of State. And this morning as chairman of the Ohio Ballot Board, I call this meeting of the Ballot Board to order.

9 Jeff Hobday who's our senior elections
10 counsel will serve as secretary for Ballot
11 Board, and a court reporter will transcribe a
12 recording of the proceedings, and the Ohio
13 Channel is streaming the meeting live on their
14 website where it will be archived.

15 Before we call the roll, I'd like to
16 welcome back Representative Forhan as an
17 appointed member of the Ohio Ballot Board, and
18 at this time I will administer the oath to
19 Representative Forhan.

20 You may stay in your seat and just
21 please raise your right hand and repeat after
22 me.

23 (Mr. Forhan was duly sworn in.)

24 CHAIRMAN LaROSE: Thank you so much,

1 Representative. Welcome back.

2 REPRESENTATIVE FORHAN: Thank you.

3 CHAIRMAN LaROSE: To determine whether a
4 quorum of the Ballot Board is present, I ask the
5 secretary of the Ballot Board to please call the
6 roll.

7 Jeff, go ahead.

8 MR. HOBDAY: Secretary LaRose?

9 CHAIRMAN LaROSE: Here.

10 MR. HOBDAY: Mr. Morgan?

11 MR. MORGAN: Here.

12 MR. HOBDAY: Senator Gavarone?

13 SENATOR GAVARONE: Here.

14 MR. HOBDAY: Senator DeMora?

15 SENATOR DeMORA: Here.

16 MR. HOBDAY: Representative Forhan?

17 REPRESENTATIVE FORHAN: Here.

18 CHAIRMAN LaROSE: We're all here.

19 Today's meeting agenda relates to a
20 General Assembly-initiated constitutional
21 amendment authorized by Senate Joint Resolution
22 2, which will be Issue 1 for the August 8th,
23 2023 special election.

24 First, the Ballot Board must prepare or

1 designate groups of persons to prepare arguments
2 for and against the proposed constitutional
3 amendment. That's our first agenda item.

4 The second one is that then the Ballot
5 Board must prescribe and certify ballot language
6 and an explanation.

7 And then finally, the Ballot Board must
8 direct the means by which the Secretary of State
9 will disseminate information concerning the
10 proposed state issue to voters and direct the
11 Secretary of State to contract for the
12 advertising.

13 So those are the three things that we're
14 here to talk about today. We're not here to
15 talk about the issues of the day or the merits
16 of the proposed constitutional amendment. We're
17 simply here to do those tasks that are before
18 us.

19 Now, I would ask the secretary to
20 explain the Ballot Board's duties regarding the
21 arguments for and against the ballot issue.

22 Jeff.

23 MR. HOBDAV: According to Section
24 3505.063 of the Ohio Revised Code, when the

1 General Assembly adopts a resolution proposing a
2 constitutional amendment, it may by resolution
3 designate a group of members who voted in
4 support of the resolution to prepare arguments
5 for the proposed amendment and a group of
6 members who voted against the resolution to
7 prepare arguments against the proposed
8 amendment.

9 The General Assembly has not passed a
10 resolution appointing groups of persons to draft
11 arguments either for or against the proposed
12 constitutional amendment. Therefore, the Ballot
13 Board must prepare the arguments or designate
14 groups of persons to prepare them.

15 CHAIRMAN LaROSE: Thank you, Jeff.

16 So Speaker Stephens, President Huffman,
17 as well as Leader Russo and Leader Antonio have
18 submitted letters recommending the names of
19 persons to prepare arguments for and against the
20 proposed constitutional amendment. This letter
21 was received by the Ballot Board and has been
22 provided to the Ballot Board members in advance
23 of this meeting. Copies are in your folders.

24 I think that the best thing for us to do

1 is to follow the recommendations of the
2 legislative leaders as it relates to who the
3 designated persons are to write the arguments
4 for and against.

5 And so at this time I move to designate
6 Representative Brian Stewart and Senator Rob
7 McColley to prepare the argument in favor of the
8 proposed amendment.

9 Is there a second?

10 SENATOR GAVARONE: Second.

11 CHAIRMAN LaROSE: Seconded by Senator
12 Gavarone.

13 Any discussion?

14 Seeing none, Jeff, please call the roll.

15 MR. HOBDAK: Secretary LaRose?

16 CHAIRMAN LaROSE: Yes.

17 MR. HOBDAK: Mr. Morgan?

18 MR. MORGAN: Yes.

19 MR. HOBDAK: Senator Gavarone?

20 SENATOR GAVARONE: Yes.

21 MR. HOBDAK: Senator DeMora?

22 SENATOR DeMORA: Yes.

23 MR. HOBDAK: Representative Forhan?

24 REPRESENTATIVE FORHAN: Yes.

1 CHAIRMAN LaROSE: With a unanimous vote,
2 the motion carries.

3 Next, I move to designate Representative
4 Dontavius Jarrells, Representative Bride Rose
5 Sweeney, and Representative Dani Isaacsohn, and
6 Senate -- and Dani Isaacsohn and Senators Paula
7 Hicks-Hudson and Senator Vernon Sykes to prepare
8 the argument against the proposed amendment.

9 Is there a second?

10 SENATOR DeMORA: Second.

11 CHAIRMAN LaROSE: Seconded by
12 Representative -- Senator DeMora.

13 Any discussion?

14 Seeing none, Jeff, please call the roll.

15 MR. HOBDAV: Secretary LaRose?

16 CHAIRMAN LaROSE: Yes.

17 MR. HOBDAV: Mr. Morgan?

18 MR. MORGAN: Yes.

19 MR. HOBDAV: Senator Gavarone?

20 SENATOR GAVARONE: Yes.

21 MR. HOBDAV: Senator DeMora?

22 SENATOR DeMORA: Yes.

23 MR. HOBDAV: Representative Forhan?

24 REPRESENTATIVE FORHAN: Yes.

1 CHAIRMAN LaROSE: Okay. It passes
2 unanimously. Here are the duties of the
3 designated parties. The designated parties will
4 draft arguments for and against the proposed
5 constitutional amendment. By law, each argument
6 must not exceed 300 words. The arguments shall
7 not mislead, deceive or defraud the voters. The
8 argument must be complete and filed with the
9 Secretary of State's Office no later than 80
10 days before the election. By operation of
11 Section 1.14 of the ORC, that deadline is
12 May 22nd, 2022 [sic]. You will notice that
13 that's coming right up. We are going to -- that
14 would be -- sorry. The date that it would fall
15 on under code would be this Saturday the 20th.
16 We are going to extend that, since that's not a
17 business day, to Monday the 22nd. And so the
18 groups will have until Monday, May 22nd, 2022,
19 to submit those arguments to my office, and we
20 look forward to reading them.

21 At this time, I ask the secretary of the
22 Ballot Board to discuss the Ballot Board's role
23 regarding the adoption of the specific
24 constitutional amendment ballot language and

1 explanations.

2 Jeff, go ahead.

3 MR. HOBDAV: The Ohio Constitution and
4 the Ohio Revised Code require the Ballot Board
5 to draft ballot language and an explanation for
6 each constitutional amendment proposed by the
7 General Assembly.

8 The ballot language must properly
9 identify the substance of the proposal to be
10 voted on. This may contain the full text or a
11 condensed version of the proposal. If a
12 condensed version of the proposal is used, the
13 ballot language must not omit substance of the
14 proposal that is material. Additionally, if the
15 proposed amendment is condensed, the resulting
16 language must not result in or imply a
17 persuasive argument. The ballot language must
18 be agreed to by a majority of board members.

19 CHAIRMAN LaROSE: Thank you, Jeff.

20 First, I remind everyone that we're not
21 here to debate the merits of these proposals or
22 any of the other issues that folks like to talk
23 about. Our proposed -- our purpose, however, is
24 only to prescribe the language and adopt the

1 ballot language and explanations for these
2 proposed constitutional amendments. To prepare
3 for today's meeting, our staff prepared draft
4 ballot language and that was circulated
5 yesterday to members of the committee. Members
6 received those copies and the draft is also
7 included in your binders.

8 At this time we will begin the public
9 comment period. Remarks should be limited to
10 the matter presented before the Ballot Board.
11 If anyone signed in and wishes to address the
12 Ballot Board regarding the language, please
13 identify yourself and the organization you
14 represent.

15 The sheet has one person signed in who's
16 a member of our Ballot Board frequent flyer
17 club, and we would ask Mr. McTigue to come on up
18 and to address the Ballot Board.

19 welcome back, sir.

20 MR. MCTIGUE: Good morning,
21 Mr. Secretary, members of the Ohio Ballot Board.
22 I am Don McTigue, counsel for One Person, One
23 Vote which is a statewide ballot issue committee
24 that is organized to oppose the amendment being

1 proposed by amended substitute Senate Joint
2 Resolution Number 2.

3 I would like to begin by reviewing some
4 of the standards as well for ballot language.
5 Some of this Mr. Hobday stole some of my
6 thunder, I suppose, but -- so there may be a
7 little bit of repetition here.

8 So the standards that the Ohio Supreme
9 Court has set out for statewide and local ballot
10 issues has been remarkably consistent over 60 --
11 at least 60 years. Actually closer to 70, 75
12 years. And those standards are that the ballot
13 language must fairly and accurately present a
14 statement of the question or issue to be decided
15 in order to assure a free, intelligent and
16 informative vote by the average citizen.

17 A voter has the right to know what he or
18 she is being asked to vote on, and the use of
19 language which is in the nature of a persuasive
20 argument in favor of or against the issue is
21 prohibited.

22 In terms of recent case law -- most
23 recent case law is 1921. I think there were two
24 Supreme Court cases. But in terms of helpful

1 discussion of the standards, the most recent
2 case decided is from 2012 which is State ex rel.
3 Voters First versus the Ohio Ballot Board.

4 And to just quote a small part of that
5 case in terms of the standards that the Court --
6 and the Court has basically -- I'll skip over
7 the citations to precedent that the Court has in
8 this quote, but the Court said in order to pass
9 constitutional muster the text of a ballot
10 statement must fairly and accurately present the
11 question or issue to be decided in order to
12 assure a free, intelligent, informed vote by the
13 average citizen.

14 In the larger community in many
15 instances the only real knowledge a voter
16 obtains on the ballot issue for which he or she
17 is voting comes when he or she enters the
18 polling place and reads the description of the
19 proposed issue set forth on the ballot. The
20 ballot language ought to be free from any
21 misleading tendency, whether of amplification or
22 omission.

23 with those standards in mind, my client
24 has offered and has been distributed to the

1 Ballot Board this morning some proposed
2 language. We believe that this proposed
3 language fully meets the requirements for ballot
4 language enunciated repeatedly by the Ohio
5 Supreme Court.

6 It starts with very, you know, mundane
7 opening sentence as these usually do that this
8 is a -- that amended substitute Joint Resolution
9 Number 2 proposes to amend various sections of
10 the constitution which we set forth, which we
11 think is important to set forth in the ballot
12 language the exact constitutional provisions
13 that are being amended. And then it says amends
14 them as follows, and we have three -- we have
15 numbered paragraphs as opposed to bullet
16 paragraphs. Doesn't make much difference.

17 But the first is that the -- the first
18 change brought about by the joint resolution is
19 to require that all amendments to the Ohio
20 Constitution that are proposed by citizen
21 initiative petition, joint resolution of the
22 General Assembly, or constitutional convention
23 must be approved by a super majority of at least
24 60 percent of the electors voting on the

1 amendment. And since 1912 the Ohio Constitution
2 has required a simple majority vote of
3 50 percent plus one.

4 what's important here is -- especially
5 important, I should say, in this paragraph is
6 the notation as to what the change is that the
7 voters are voting on. They're going from
8 50 percent plus one, which has been the simple
9 majority requirement since 1912, and they are
10 being asked to change that to 60 percent.

11 The second paragraph spells out that the
12 voters are being asked to repeal the 10-day
13 period for citizens to file supplemental
14 signatures after the State has determined that
15 there's a deficiency in the number of validated
16 signatures submitted by initiative petition.
17 And that this 10-day cure period has been part
18 of the constitution since 1912.

19 Again here, what's important is voters
20 being -- what's most important is voters being
21 told what the change is that they're being asked
22 to vote on, which is to take a 10-day grace
23 period or cure period, whatever you want to call
24 it, for supplemental signatures that has been in

1 the constitution since 1912 and to repeal, to
2 eliminate that completely.

3 And the third point is to -- is that the
4 amendment would increase from 44 to 88 counties
5 the requirement that a citizen initiative
6 petition proposing amendment to the constitution
7 contain signatures of electors equal to
8 5 percent the total vote for governor in each
9 county. The 44-county provision has been part
10 of the constitution since 1912.

11 Again, what's most crucial, although not
12 the only crucial part here, is that the voters
13 are being told what the exact change is.
14 They're going from 44 counties to 88 counties.
15 And the signature requirement that's in the
16 constitution is for 5 percent of the
17 gubernatorial vote in those counties or in each
18 of those counties.

19 So we believe that these are -- that
20 these paragraphs fully meet the requirements set
21 forth by the Ohio Constitution for voters to be
22 fully informed to make intelligent decisions,
23 and this is even more important given that this
24 is a constitutional amendment, and it's a

1 constitutional amendment affecting basic rights
2 of the citizens who are being asked to vote upon
3 it. They have the right. They're entitled to
4 know what the change is that they're being asked
5 to vote upon.

6 with that in mind, I would like to go to
7 the staff draft and offer some criticism on the
8 ballot language. With regard to the three
9 bullet points, none of the bullet points explain
10 what the current constitutional provision is.
11 So they're not telling -- it's not telling the
12 voters what change they're being asked to make.

13 when you pass legislation in General
14 Assembly, you have in front of you what the
15 exact change is. When you read -- and even if
16 you don't read the legislation, you read the LLC
17 analysis, the LLC analysis, which is a summary,
18 will tell you what that exact change is. Okay.
19 The voters are entitled to know less when they
20 are being asked to legislate on the most
21 important document in the state of Ohio.

22 with regard to the third bullet point, I
23 believe that the third bullet point is actually
24 incorrect. It says specify that additional

1 signatures may not be added to an initiative
2 petition filed with the Secretary of State after
3 January 1, 2024, proposing to amend the
4 constitution. Actually, Senate joint resolution
5 makes no such specification. What the joint
6 resolution does is repeal the 10-day period,
7 period. Repeals it. Okay. It doesn't specify
8 anything. So this isn't, first of all, an
9 inaccurate statement. Second of all, it also
10 does not inform voters in any way of what the
11 change is from the current law.

12 with regard to the second bullet point
13 which has to do with the number of counties from
14 which you have to have 5 percent of eligible
15 voters sign, this is -- this paragraph fails to
16 inform voters of what the actual change is.

17 I would venture to guess that there are
18 very few voters who current -- who know walking
19 into the polling booth that since 1912 they've
20 had to have -- petitioners have had to have
21 signatures from half of the counties, from 44
22 counties. This amendment changes that. They
23 need to know what the change is. It's from 44
24 to 88.

1 Also the statement about 5 -- at least
2 5 percent of the eligible voters of each county
3 is actually not accurate. It's 5 percent of the
4 most recent gubernatorial vote in that county.
5 So there's an error there.

6 with regard to the first bullet point
7 where it says required that any proposed
8 amendment to the constitution receive the
9 approval of at least 60 percent of the eligible
10 voters voting on it, again this really fails to
11 explain to voters what the current law is.

12 Again, walking into the voting booth,
13 voters might not have any idea. They might
14 think it's a simple majority. They might think
15 it's 55 percent. For all they know, it's
16 70 percent. Perhaps we're actually lowering
17 this to 60 percent. They won't know unless you
18 put it there. Some will, but we have to assume
19 that many voters will not know, and therefore,
20 this is a chance for this Ballot Board to fairly
21 inform those voters so that they can make,
22 again, an intelligent choice.

23 I would also suggest that with regard to
24 that bullet point that the word future be

1 inserted where it says required that any future
2 proposed amendment -- says any proposed
3 amendment. That we insert the word future there
4 to add clarity since 60 percent is not being
5 required for this amendment, and it would add
6 some clarity there; so I would suggest that.

7 Now, with the indulgence of the board, I
8 would also like to address the ballot title.
9 Realizing, of course, that the ballot title is
10 written by the Secretary of State, not the
11 board, appreciate the fact that the draft
12 language actually includes the ballot title
13 because sometimes we don't get that until after
14 the ballot language.

15 But in this case there are standards for
16 ballot titles. There are standards spelled out
17 in the code, and even though the General
18 Assembly has given this authority to the
19 Secretary of State, at the same time the General
20 Assembly prescribed limitations upon the
21 exercise of that authority.

22 Those limitations are in 3519.21 where
23 it says in preparing such a ballot title the
24 secretary shall give a true and impartial

1 statement of the measures in such language that
2 the ballot title shall not be likely to create
3 prejudice for or against the measure.

4 with regard to the ballot title that is
5 in the staff draft we believe that there is an
6 egregious violation of those standards with
7 regard to the first three words that say
8 elevating the standards. Elevating is a word
9 that has connotations that most people would say
10 meaning to raise up in status, raise up in
11 honor. It's not -- it is not free. It is not
12 of any prejudice. It -- most people reading
13 that -- the average -- I should say the average
14 person reading that would view that as a
15 positive term, modifying term. Okay. Or verb.
16 Language that would be better would be, say,
17 change the standards, modify the standards, and
18 so I would suggest that there should be a change
19 as well there.

20 with that, Mr. Secretary, I'd be happy
21 to answer any questions.

22 CHAIRMAN LaROSE: Any questions for the
23 witness?

24 Seeing none, thank you, Mr. McTigue.

1 MR. MCTIGUE: Thank you.

2 CHAIRMAN LaROSE: All right. At this
3 time I have a motion. I move to approve the
4 ballot language as drafted by the staff and
5 circulated to the members. It is, again, in
6 your folders right now in front of you.

7 Is there a second?

8 SENATOR GAVARONE: Second.

9 CHAIRMAN LaROSE: Seconded by Senator
10 Gavarone.

11 Any discussion?

12 Yeah, Representative Forhan, go ahead.

13 REPRESENTATIVE FORHAN: Thank you,
14 Secretary Chair. And I was looking at one of
15 the cases that Mr. McTigue had described
16 recently, this 2012 case issued by the Ohio
17 Supreme Court, Voters First. And you know, the
18 language that Mr. McTigue cited is -- I mean,
19 it's right there.

20 The Supreme Court said, you know, that
21 it arises from the need to assure a free,
22 intelligent and informed vote by the average
23 citizen affected by these ballot issues, right.
24 And the way that we do that is to ensure first

1 that a voter has the right to know what it is
2 she's being asked to vote on, and second,
3 prohibiting the use of language which is in the
4 nature of a persuasive argument in favor for or
5 against the issue.

6 And so I can't help when I look at the
7 draft as it is now by omitting to include any
8 mention of what the existing law is, I mean, I
9 think that there is a failure to meet those
10 standards.

11 For example, in that same case, right,
12 the Ohio Supreme Court, you know, they were --
13 they were -- in this case they were actually
14 rejecting ballot language approved by the Ohio
15 Ballot Board, and they're focusing on that first
16 point, the point about, you know, that a voter
17 has a right to know what it is she's being asked
18 to vote on.

19 They said in that case in 2012, you
20 know, the defect here, and I'm quoting, is
21 comparable to referendum petition summarizing a
22 resolution rezoning property as a change in the
23 zoning on the property without specifying the
24 precise nature of the change. And the Court

1 continued: We can require no less in construing
2 the constitutional and statutory requirements
3 applicable to the ballot language cases for
4 proposed statewide constitutional amendments
5 which have greater effect on the people of this
6 state than the local zoning amendments.

7 So you wouldn't ask, you know, a
8 subdivision or municipality to approve a change
9 in the zoning law if you didn't explain to them
10 exactly what the change in the zoning was. And
11 I don't think, you know, as the Court -- our
12 state Supreme Court said, something of this
13 nature has a far greater effect than a change in
14 the zoning law. People -- we should explain to
15 them what the change is and the omission of what
16 the existing law is, that at the moment only
17 requires a simple majority, that that is --
18 indeed fails to meet that standard.

19 CHAIRMAN LaROSE: Comments?

20 Senator DeMora.

21 SENATOR DeMORA: Thank you,
22 Mr. Chairman.

23 I'm going to pick up on a few things
24 that I actually noted to myself as somebody

1 who's done lots of elections and lots of
2 petition gathering in my life. The second
3 bullet point is clearly incorrect. I mean, we
4 do not have to get signatures by 5 percent of
5 the eligible voters in each county. It's
6 clearly that we only have to get signatures of
7 5 percent of those voters that voted for
8 governor in the last gubernatorial election.
9 That's been clear as someone who gets signatures
10 for all kinds of things from liquor options to
11 customs to amendments to other things that
12 clearly does not meet the -- what's currently
13 law by saying 5 percent of the eligible voters.
14 That's clearly incorrect. So obviously it is
15 misleading and doesn't accurately present what
16 the law is.

17 For the third one, as somebody who sat
18 in this very room when STR2 was heard and was on
19 the committee that had heard that, the third
20 bullet point specified again the language -- the
21 resolution that I have before me clearly does
22 not say the word specify. It clearly says that
23 we are repealing the 10-day period to file
24 supplemental signatures when there's a

1 deficiency. It's clearly written in the
2 amendment -- I mean, excuse me, the resolution
3 that was passed by the General Assembly. And
4 saying that this specifies that we can't take
5 signatures, specify is clearly misleading to the
6 voter when, in fact, what the joint resolution
7 clearly does is repeal the 10-day period.

8 And I would also -- again, what my
9 colleague Representative Forhan just said,
10 this -- none of this language states what is
11 currently the law and what currently the state
12 constitution says. I mean, it clearly says
13 right now that you need 5 percent of people that
14 voted for governor in each county in 44 of the
15 state's counties to get something on the ballot.

16 Number 2, again, doesn't say that you
17 only need 44 now. The language says every
18 county in the state. So we're obviously making
19 that -- we're doubling the amount of counties
20 going from half to all. And again, we do not
21 need 5 percent of the eligible voters. It would
22 be impossible to get 5 -- I mean, 5 percent of
23 eligible voters is a number much, much greater
24 than 5 percent of the people that voted in the

1 last gubernatorial election. As we all know,
2 the last gubernatorial election had very poor
3 turnout. And this ballot language says that we
4 need 5 percent of everybody that's eligible to
5 vote in every county, not what is actually the
6 case of 5 percent of people that voted, which is
7 somehow -- was somewhere around 50 percent of
8 the people that voted in the last election for
9 governor.

10 So what this language says requires
11 getting basically twice as many signatures as
12 what the law states, because only half the
13 people voted. So it's clearly the vote -- the
14 language here is clearly not what the current
15 requirement is for signatures and can easily be
16 construed that if someone, regular petitioners,
17 who unlike some of us who do this for a living
18 clearly would tell somebody, well, if there are
19 a million eligible voters in Franklin County,
20 that they need to get 5 percent of all those
21 voters, not 5 percent of what were only 203 or
22 240,000 people that actually voted for governor
23 in this county.

24 So that right there, if we pass this

1 language as it's written, is clearly going to be
2 challenged, and is clearly -- the Court is going
3 to -- it is going to find that that is clearly
4 misleading to anybody that's doing -- in the
5 future would have to get signatures and clearly
6 misleading to the voters which is a number which
7 is much, much greater than what they actually
8 have to get.

9 Thank you, Mr. Chairman.

10 CHAIRMAN LaROSE: Further comment?

11 Representative Forhan.

12 REPRESENTATIVE FORHAN: Thanks, Chair.

13 Yeah, I just wanted to touch on another
14 point here, that this ballot language it'll
15 include an explanation -- my understanding is it
16 will include an explanation, right?

17 CHAIRMAN LaROSE: That'll be the next
18 thing to vote on.

19 REPRESENTATIVE FORHAN: That's the
20 next -- okay. Okay. Fine. I'll save this for
21 the next one. Okay.

22 CHAIRMAN LaROSE: Further comments?

23 REPRESENTATIVE FORHAN: Yeah. Thank
24 you.

1 CHAIRMAN LaROSE: Yep.

2 Further comments?

3 Okay. I'll remind you that I had a
4 motion and that it was seconded by Senator
5 Gavarone. That motion was to approve the
6 drafted ballot language as distributed.

7 Seeing no further comment, Jeff, please
8 call the roll.

9 MR. HOBDAY: Secretary LaRose?

10 CHAIRMAN LaROSE: Yes.

11 MR. HOBDAY: Mr. Morgan?

12 MR. MORGAN: Yes.

13 MR. HOBDAY: Senator Gavarone?

14 SENATOR GAVARONE: Yes.

15 MR. HOBDAY: Senator DeMora?

16 SENATOR DeMORA: No.

17 MR. HOBDAY: Representative Forhan?

18 REPRESENTATIVE FORHAN: No.

19 CHAIRMAN LaROSE: By a vote of 3 to 2,
20 the motion carries.

21 We will now consider the explanation.

22 And to prepare for today's meeting, our staff

23 prepared a draft explanation. The members

24 received a copy of that and that has been

1 distributed.

2 If anyone wishes to address the Ballot
3 Board regarding the explanation for Issue 1,
4 please identify yourself and the organization
5 you represent.

6 Mr. McTigue, are you coming back up to
7 talk to us about the explanation?

8 Yes, please. Welcome back to the
9 committee.

10 MR. MCTIGUE: Thank you. Mr. Chairman,
11 members of the board.

12 Again, I'm Don McTigue on behalf of One
13 Person, One Vote. The explanation that has been
14 presented by the staff suffers from the same
15 issues or problems that I pointed out for the
16 ballot language. Therefore, I'm not going to
17 repeat all of those arguments, but for the
18 record we believe that the explanation needs to
19 be changed to also indicate what the changes are
20 that are being proposed in terms of what is
21 current law and what is it being proposed to be
22 changed to.

23 Also, we think it suffers from the same
24 prejudicial language about elevating the

1 standards. And having said that, too, it says
2 something about passed by 2/3 of the General
3 Assembly. I believe the standard was 3/5, but
4 just pointing that out. I think that, you know,
5 that's an error in the explanation that needs to
6 be fixed, although the other parts are really
7 the heart of it. Thank you.

8 CHAIRMAN LaROSE: Thank you,
9 Mr. McTigue.

10 I'll point out that 88 members of the
11 132 members of the General Assembly voted for
12 it, which is exactly 2/3, and that's why we used
13 that language.

14 Questions for the witness?

15 All right. Seeing none, I have a motion
16 here to approve the explanation for Issue 1
17 which was drafted by the staff and distributed
18 to the members.

19 Is there a second?

20 SENATOR GAVARONE: Second.

21 CHAIRMAN LaROSE: Seconded by Senator
22 Gavarone.

23 Any discussion?

24 Senator DeMora.

1 SENATOR DeMORA: Thank you,
2 Mr. Chairman.

3 Again, I will argue that 2/3 is not the
4 proper number. It is 3/5. And just because the
5 Senate happens to only have 7 democrats because
6 of districts, that it's still -- had there been
7 a vote, it would have needed 3/5 not 2/3. And
8 in the House actually 62 people voted in the
9 affirmative for the amendment, and 2/3 would be
10 66 out of 99; so 2/3 is clearly incorrect.

11 And again, the line toward the end that
12 says the amendment specifies that new signatures
13 may not be added is clearly incorrect. The
14 amendment repeals what is currently in the state
15 constitution, or changes or removes, but the
16 word specifies again is nowhere in the joint
17 resolution at all in the language.

18 And the language clearly states that
19 it -- the line's crossed out. As Mr. McTigue
20 says, that we get a copy and it tells us what is
21 currently in there and what they're taking out.
22 And that line is taken out about the allowing
23 for the process to 10 days to file supplemental
24 signatures. It doesn't specify it. It draws

1 the line through it making it -- taking out
2 language that's currently in there.

3 So again, this explanation is not
4 according to what the State Supreme Court said.
5 It is not fair and accurate, and it does mislead
6 and deceive and defrauds the voters.

7 Thank you, Mr. Chairman.

8 CHAIRMAN LaROSE: Further comment?

9 Representative Forhan.

10 REPRESENTATIVE FORHAN: Thanks, Chair.

11 I would just say that for the same
12 reasons that the language that this board just
13 passed failed to meet the standards articulated
14 by the Ohio Supreme Court, this explanation
15 fails to meet the standards. We're trying to
16 ensure -- trying to ensure as the Ohio Supreme
17 Court said that it's a free and fair, informed
18 election. And omitting to include detail about
19 what the existing law is as the language that we
20 just passed fails to include as this explanation
21 fails to include, it is a material omission that
22 will impair the ability of voters to make that
23 free, intelligent, informed decision.

24 So again, I would urge that we uphold

1 those standards. Again, try to achieve free and
2 fair elections in the state of Ohio. I would
3 urge that we vote no on this explanation.

4 CHAIRMAN LaROSE: Thank you,
5 Representative.

6 Further comment?

7 Seeing none, remind the members my
8 motion is currently on the table to approve the
9 explanation as drafted. It was seconded by
10 Senator Gavarone.

11 Seeing no further comment, Jeff, please
12 call the roll.

13 MR. HOBDAY: Secretary LaRose?

14 CHAIRMAN LaROSE: Yes.

15 MR. HOBDAY: Mr. Morgan?

16 MR. MORGAN: Yes.

17 MR. HOBDAY: Senator Gavarone?

18 SENATOR GAVARONE: Yes.

19 MR. HOBDAY: Senator DeMora?

20 SENATOR DeMORA: No.

21 MR. HOBDAY: Representative Forhan?

22 REPRESENTATIVE FORHAN: No.

23 CHAIRMAN LaROSE: By a vote of 3 to 2,
24 the motion carries.

1 Next up and our final order of business
2 here is to consider the dissemination of
3 information as required by Ohio Revised Code
4 3505.062(F). That section requires this board
5 to direct the means by which the Secretary of
6 State will disseminate information concerning
7 the statewide issue to the voters.

8 I propose that is we authorize my office
9 to provide a sufficient number of paper copies
10 of the information regarding the statewide issue
11 for the August 8th, 2023, special election to
12 the boards of elections, members of the state
13 legislature, public agencies and other
14 interested persons.

15 Additionally, this information will be
16 published on the Secretary of State's website
17 for easy access.

18 And at this time is there any discussion
19 on this? Any witnesses here to talk about the
20 dissemination of information?

21 All right. Seeing none, I make a motion
22 that we disseminate the information as I just
23 explained.

24 Is there a second?

1 SENATOR GAVARONE: Second.

2 CHAIRMAN LaROSE: Seconded by Senator
3 Gavarone, again, regarding the dissemination of
4 information as required in 3505.062. What has
5 just been moved and seconded would be to propose
6 that we authorize my office to provide a
7 sufficient number of paper copies of the
8 information regarding the statewide issue for
9 the August 8th, 2023, special election to the
10 boards of elections, members of the legislature,
11 public agencies and any other interested
12 persons. And additionally, that all of this
13 information will be published on the Secretary
14 of State's website for easy internet access.
15 It's been moved and seconded.

16 Any discussion?

17 Senator DeMora.

18 SENATOR DeMORA: Thank you,
19 Mr. Chairman.

20 I'd like to -- actually since we're
21 having an August election that nobody knows
22 about, that we should -- the Secretary of State
23 should mail out to all voters the fact that we
24 are having an August election, and that this

1 language of both the pros and the cons or
2 argument for, argument against should be sent
3 out to all the voters explaining that this is
4 changing their constitution in an election held
5 in August for the first time since 1912 when the
6 original -- when this current constitution of
7 the State of Ohio was adopted and hasn't
8 happened since. And I think we should tell the
9 voters that because ordinarily voters aren't
10 used to August elections.

11 CHAIRMAN LaROSE: So if that's a motion
12 you're making, that will be in order after we
13 vote my motion if you want to consider that, but
14 otherwise my motion is on the table.

15 Any discussion to the motion that I
16 made?

17 All right. Seeing none, Jeff, please
18 call the roll.

19 MR. HOBDDAY: Secretary LaRose?

20 CHAIRMAN LaROSE: Yes.

21 MR. HOBDDAY: Mr. Morgan?

22 MR. MORGAN: Yes.

23 MR. HOBDDAY: Senator Gavarone?

24 SENATOR GAVARONE: Yes.

1 MR. HOBDAY: Senator DeMora?

2 SENATOR DeMORA: No.

3 MR. HOBDAY: Representative Forhan?

4 REPRESENTATIVE FORHAN: Abstain.

5 CHAIRMAN LaROSE: With 3 affirmative
6 votes, the measure carries.

7 Before we do explanation of advertising,
8 Senator DeMora, did you want to make that
9 motion?

10 SENATOR DeMORA: Yes, sir, I would.

11 CHAIRMAN LaROSE: Recognize Senator
12 DeMora for a motion.

13 SENATOR DeMORA: Mr. Chairman, my motion
14 is to have the Secretary, like he would in a
15 presidential election send out to all the voters
16 an application for absentee ballot, that in this
17 case that Secretary would mail out the proposed
18 amendment along with the pros and cons or
19 arguments for and against to all eligible voters
20 in the state with the fact that there's an
21 August election that the voters of the state
22 aren't necessarily used to. So it would bring
23 up to all voters that a notice of the election
24 in August along with the copy of the proposed

1 amendment and the pros and cons.

2 CHAIRMAN LaROSE: Is there a second?

3 REPRESENTATIVE FORHAN: Second.

4 CHAIRMAN LaROSE: Seconded by
5 Representative Forhan.

6 So as I start discussion on this motion,
7 just want to make sure, Senator DeMora, that
8 we're clear what you're proposing is a mailing
9 of the statewide absentee ballot application to
10 all registered voters as well as explanation of
11 what is contained in the constitutional
12 amendment and notice that there is a
13 constitutional amendment on the ballot in
14 August?

15 SENATOR DeMORA: Yes, Mr. Chairman.

16 CHAIRMAN LaROSE: Okay. Terrific.

17 By way of discussion, I have and always
18 will be a fan of getting as many people to
19 participate in every election as possible. And
20 so our office has consistently advertised -- or
21 consistently advocated for sending out absentee
22 ballot requests whenever the General Assembly
23 will allow it.

24 I will say that there is language in the

1 ORC that says that we may not send out absentee
2 ballot applications unless it's specifically
3 authorized and funded by the General Assembly.
4 And so, you know, this motion today may not
5 actually be able to take effect if it were to
6 pass, because it may be contrary to that
7 provision of code.

8 Further discussion?

9 All right. Seeing none, Jeff, please
10 call the roll.

11 MR. HOBDAV: Secretary LaRose?

12 CHAIRMAN LaROSE: No.

13 MR. HOBDAV: Mr. Morgan?

14 MR. MORGAN: No.

15 MR. HOBDAV: Senator Gavarone?

16 SENATOR GAVARONE: No.

17 MR. HOBDAV: Representative Forhan?

18 REPRESENTATIVE FORHAN: Yes.

19 MR. HOBDAV: Senator DeMora?

20 SENATOR DeMORA: Yes.

21 CHAIRMAN LaROSE: The motion fails.

22 Jeff, would you please now explain the
23 advertising of statewide ballot issues as
24 required by law.

1 MR. HOBDAY: Section 3501.17 of the Ohio
2 Revised Code requires the State to bear the
3 entire cost of advertising statewide ballot
4 issues in newspapers, and to reimburse the
5 Secretary of State out of the Statewide Ballot
6 Advertising Fund for all expenses the Secretary
7 of State incurs for the advertising. The
8 Secretary of State may request such funds from
9 the Statewide Ballot Advertising Fund either
10 before or after placing the advertising.

11 Article 16, Section 1 of the Ohio
12 Constitution requires the ballot language,
13 explanation, arguments for and against, and the
14 full text of state issues to be published once a
15 week for three consecutive weeks before the
16 election.

17 RC 3505.062(G) requires the Ohio Ballot
18 Board to direct the Secretary of State to
19 contract for that advertising.

20 CHAIRMAN LaROSE: Thank you, Jeff, for
21 that explanation.

22 Accordingly, I propose that the Ballot
23 Board authorize my office to contract for the
24 required advertising of the statewide issue that

1 will appear on the August 8th, 2023 ballot, and
2 to authorize my office to request the
3 Controlling Board to transfer sufficient funds
4 for the purpose. That's my motion. Again, my
5 motion is that we would authorize my office to
6 contract for the required advertising of the
7 statewide issue, and to authorize my office to
8 request the Controlling Board for transfer of
9 sufficient funds for that purpose.

10 Is there a second?

11 SENATOR GAVARONE: Second.

12 CHAIRMAN LaROSE: Seconded by Senator
13 Gavarone.

14 Any discussion?

15 All right. Seeing none, Jeff, please
16 call the roll.

17 MR. HOBDAY: Secretary LaRose?

18 CHAIRMAN LaROSE: Yes.

19 MR. HOBDAY: Mr. Morgan?

20 MR. MORGAN: Yes.

21 MR. HOBDAY: Senator Gavarone?

22 SENATOR GAVARONE: Yes.

23 MR. HOBDAY: Senator DeMora?

24 SENATOR DeMORA: Yes.

1 MR. HOBDAY: Representative Forhan?

2 REPRESENTATIVE FORHAN: Yes.

3 CHAIRMAN LaROSE: By unanimous vote, the
4 motion carries.

5 Prior to adjournment, I will correct
6 something that I may have misspoken on due to
7 the effects of sleep deprivation. The deadline
8 for the groups that are writing arguments for
9 and against this is due by my office May 22nd,
10 2023. I think I said 2022. We're not asking
11 you to go back in time. May 22nd, 2023.

12 Is there any further business to come
13 before the Ballot Board?

14 All right. Seeing none, thanks everyone
15 for being with us today and we are adjourned.

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17 Thereupon, the proceedings of May 18,
18 2023, were concluded at 10:31 a.m.

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CERTIFICATE

I, Julia Lamb, RPR, CRR, a
stenographic court reporter and notary public in
and for the State of Ohio, do hereby certify
that the foregoing proceedings were taken down
by me stenographically and that the foregoing
transcript of such proceedings is a full, true,
and correct transcript of my stenographic notes
as so taken. Any changes or modifications made
to this transcript after completion were not
made by me and the original, certified
transcript is maintained by PRI Court Reporting.

I do further certify that I was called
there in the capacity of a court reporter and am
not otherwise interested in this proceeding.

In witness whereof, I have hereunto
set my hand at Columbus, Ohio, on this 23rd day
of May, 2023.

Julia Lamb

Julia Lamb, RPR, CRR
Notary Public, State of Ohio

My commission expires: 10-10-27

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Exhibit 3

Issue 1

Proposed Constitutional Amendment

ELEVATING THE STANDARDS TO QUALIFY FOR AND TO PASS ANY CONSTITUTIONAL AMENDMENT

Proposed by Joint Resolution of the General Assembly

To amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- Require that any proposed amendment to the Constitution of the State of Ohio receive the approval of at least 60 percent of eligible voters voting on the proposed amendment.
- Require that any initiative petition filed on or after January 1, 2024 with the Secretary of State proposing to amend the Constitution of the State of Ohio be signed by at least five percent of the eligible voters of each county in the state.
- Specify that additional signatures may not be added to an initiative petition filed with the Secretary of State on or after January 1, 2024 proposing to amend the Constitution of the State of Ohio.

If passed, the amendment shall be effective immediately.

	YES	SHALL THE AMENDMENT BE APPROVED?
	NO	

CERTIFICATION

Acting in my capacity as the secretary of the Ohio Ballot Board, I hereby certify to the Secretary of the State of Ohio that the foregoing text is the ballot language prescribed by the Ohio Ballot Board, acting pursuant to Article II, Section 1g of the Ohio Constitution and section 3505.062 of the Revised Code of Ohio, for this constitutional amendment proposed by the General Assembly for submission to the Ohio electorate at the election to be held on August 8, 2023.

In testimony whereof, I have subscribed my name in Columbus, Ohio, this 18th day of May, 2023.

Secretary, Ohio Ballot Board

Exhibit 4

Ohio Republicans OK 60% amendment approval ballot text; Democrats say it's 'sneaky'

The Statehouse News Bureau | By Jo Ingles

Published May 18, 2023 at 5:12 PM EDT



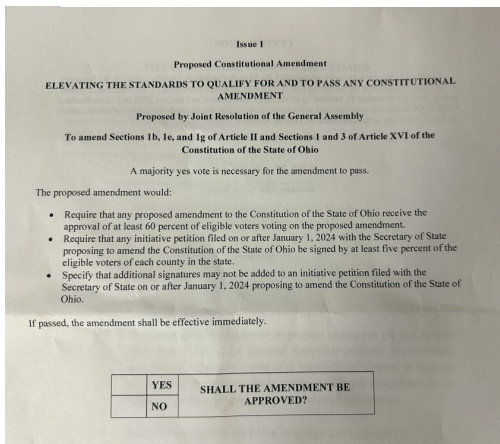
Daniel Konik / Statehouse News Bureau

The Ballot Board meets at the Ohio Statehouse on May 18, 2023.

The Ohio Ballot Board has approved the language voters could see when they vote on a Republican-backed proposal to make it harder to amend the constitution. That is, if the Ohio Supreme Court allows the August election to consider that measure to move forward.

Opponents called the approved ballot language inaccurate, illegal, undemocratic, sneaky and unfair.

The three Republicans on the five-member board voted to adopt the summary language of Issue 1, the amendment to require a 60% vote threshold instead of the current 50% plus one.



Jo Ingles / Statehouse News Bureau

Ballot language summary for proposed constitutional amendment to make it harder to amend the Ohio Constitution in the future

Democrats lambasted the summary language

State Rep. Elliot Forhan (D-South Euclid) called the summary ballot language of the proposed amendment "undemocratic, unpopular and unfair." And state Sen. Bill DeMora (D-Columbus) said the Republican-dominated legislature, which the Ohio Supreme Court has repeatedly said is gerrymandered, is playing politics with the state constitution.

"It's sneaky, it's illegal and all they are doing is trying to ram their policies and ram this thing through an election that's both unconstitutional and in August when most people don't vote," DeMora said.

The attorney representing One Person, One Vote, the coalition opposing the constitutional amendment, took issue with many parts of the resolution, starting with the title: "Elevating the standards to qualify for and to pass any constitutional amendment." Don McTigue said the word "elevating" conveys a positive connotation that could influence voters, especially because the language doesn't tell the voter the current standard for approving an amendment is a simple majority.

"It's important that they be informed of what the actual change is," said McTigue. "This language that is

in the ballot language not only fails to inform them of the change, but is actually inaccurate."

McTigue said the summary language explaining that petitions "must be signed by at least 5% of eligible voters of each county in the state," is wrong, too. He noted the actual amendment requires signatures from 5% of only those voters who cast ballots in the last gubernatorial election from all 88 counties. And he said the language should have explained that currently petition signatures are only required from 44 counties.

And McTigue also said the elimination of the "cure period" was misstated on the ballot summary. Petition gatherers currently have 10 days to get more signatures if they fall short of the number they need. It's eliminated in this proposal.

Republican Ballot Board leader defended summary language

Republican Secretary of State Frank LaRose, who chairs the ballot board and supports the 60% voter approval amendment, said he realizes a discrepancy exists between the summary language and the amendment text regarding the number of needed signatures.

"There is a difference between 5% of all eligible voters and 5% of the most recent gubernatorial election," LaRose said.

LaRose explained the summary of the amendment that voters see on the ballot needs to be concise.

"Putting a ton of words on the actual ballot is confusing to people in and of itself. So we provide an explanation of what's changing. We didn't provide an explanation of what it currently is. We provided an explanation of what would be new if this were to pass and we believe it is going to be sufficient," LaRose said.

He said voters will be able to see and read arguments for and against the issue to get a complete picture of the proposed amendment before early voting starts in July.

"There will be plenty of opportunities for voters to educate themselves prior to standing in the actual ballot box," LaRose said.

He also defended the word "elevating" in Issue 1's title.

"'Elevating' means to raise or increase. That's the first definition in the Webster's dictionary," LaRose said.

While Democrats on the ballot board raised concerns about the language, they didn't propose any changes. DeMora said it wouldn't have done any good.

"Offering futile amendments just to offer amendments isn't going to help anybody's cause," DeMora said.

The Ohio Supreme Court is considering a lawsuit over whether the resolution to put the amendment change on the ballot is legal. If the Republican-dominated court decides the proposed amendment itself is unconstitutional, that could stop the election from moving forward.

Ohio lawmakers want to get the issue before voters in time to thwart a possible November constitutional amendment that seeks to enshrine abortion into the state constitution.

Tags Government/Politics Ohio Statehouse News constitutional amendment



Jo Ingles

Contact Jo Ingles at jingles@statehousenews.org.

See stories by Jo Ingles

WNSU HD1
Here and Now

Exhibit 5

Proposed Constitutional Amendment

TO REQUIRE THAT AMENDMENTS TO THE OHIO CONSTITUTION BE APPROVED BY AT LEAST 60%
OF THE ELECTORS VOTING ON THE AMENDMENT AND TO INCREASE REQUIREMENTS FOR
AMENDMENTS PROPOSED BY CITIZEN INITIATIVE PETITION

Proposed by Am. Sub. Senate Joint Resolution Number 2 of the General Assembly.

A majority affirmative vote is necessary for the amendment to pass.

Amended Substitute Senate Joint Resolution Number 2 proposes to amend Sections 1b, 1e and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio as follows:

1. Require that all amendments to the Ohio Constitution proposed by citizen Initiative Petition, Joint Resolution of the General Assembly, or Constitutional Convention be approved by a supermajority of at least 60% of the electors voting on the amendment. Since 1912, the Ohio Constitution has required a simple majority vote of 50% + 1.
2. Repeal the 10-day period for citizens to file supplemental signatures after the state has determined that there is a deficiency in the number of validated signatures submitted by a citizen Initiative Petition proposing an amendment to the Ohio Constitution. The 10-day cure period has been part of the Constitution since 1912.
3. Increase from 44 to 88 counties the requirement that a citizen Initiative Petition proposing an amendment to the Ohio Constitution contain signatures of electors equal to 5% of the total vote for governor in each county. The 44-county provision has been part of the Constitution since 1912.

If passed, the Amendment will take effect immediately.

SHALL THE AMENDMENT BE APPROVED

YES

NO

Submitted by One Person One Vote to the Ohio Ballot Board on May 18,
2023.

IN THE SUPREME COURT OF OHIO

**State of Ohio *ex rel.* One Person One Vote,
et al.,**

Relators,

v.

Ohio Ballot Board, *et al.*,

Respondents.

Case No. _____

Original Action in Mandamus Pursuant to
Article XVI, Section 1 of the Ohio
Constitution

Expedited Election Case
Pursuant to Supreme Court Rule of
Practice 12.08

Peremptory and Alternative Writs
Requested

VERIFICATION OF DONALD J. MCTIGUE

Franklin County


/ss

State of Ohio

I, Donald J. McTigue, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify as to the facts set forth below based on my personal knowledge and having personally examined all records referenced in this affidavit, and further state as follows:

1. I am an attorney at law licensed to practice in the State of Ohio and I serve as legal counsel to Relators in this action.
2. Exhibit 1 is a true and correct copy of Amended Substitute Senate Joint Resolution Number 2, as signed and received by the Secretary of State on May 10, 2023.
3. Exhibit 2 is a true and correct transcript of the Ohio Ballot Board's meeting on May 18, 2023.
4. Exhibit 3 is a true and correct copy of the ballot language that the Ohio Ballot Board proposed and approved during its meeting on May 18, 2023.
5. Exhibit 4 is a true and correct copy of a May 18, 2023, article from the Statehouse News Bureau, entitled "Ohio Republicans OK 60% amendment approval ballot text; Democrats say it's 'sneaky.'"
6. Exhibit 5 is a true and correct copy of the ballot language that One Person One Vote proposed during the Ohio Ballot Board's meeting on May 18, 2023.

7. I have read the Complaint filed in this action and affirm that the factual allegations contained therein are true and accurate.



Donald J. McTigue

Sworn to before me this 23rd day of May, 2023.

 Katelyn Irene Street
Notary Public



Katelyn Irene Street
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 O.R.C.

My commission expires Does Not Expire