

**IN THE SUPREME COURT OF OHIO**

**STATE EX REL. OHIOANS FOR SECURE  
AND FAIR ELECTIONS**

545 E. Town Street  
Columbus, Ohio 43215

**STATE EX REL. DARLENE L. ENGLISH**

15332 Lake Shore Boulevard  
Cleveland, Ohio 44110

**STATE EX REL. LAURA A. GOLD**

4433 Groveland Road  
University Heights, Ohio 44118

**STATE EX REL. HASAN KWAME JEFFRIES**

196 Balsam Drive  
Pickerington, Ohio 43147

**STATE EX REL. ISABEL C. ROBERTSON**

1965 Mornington Lane, Apt. 8  
Cleveland Heights, Ohio 44106

**STATE EX REL. EBONY SPEAKES-HALL**

6617 English Oaks  
Middletown, Ohio 45044

**Relators,**

-v-

**FRANK LAROSE, in his official capacity as  
Ohio Secretary of State.**

22 North Fourth Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215

**OHIO BALLOT BOARD**

22 North Fourth Street  
Columbus, Ohio 43215

**DAVE YOST, in his official capacity as Ohio  
Attorney General.**

30 East Broad Street  
Columbus, Ohio 43215

**Respondents.**

**CASE NO.**

**ORIGINAL ACTION IN  
MANDAMUS**

**ALTERNATIVE AND  
PEREMPTORY WRITS  
REQUESTED**

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**RELATORS' COMPLAINT IN ORIGINAL ACTION FOR WRIT OF MANDAMUS**

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This action is brought in the name of the State of Ohio on relation of Ohioans for Secure and Fair Elections, Darlene L. English, Laura A. Gold, Hasan Kwame Jeffries, Isabel C. Robertson, and Ebony Speakes-Hall (“Relators”), who are petitioning this Court for an order requiring the Ohio Ballot Board to certify to the Ohio Attorney General that Relators’ proposed “Secure and Fair Elections Amendment” contains a single constitutional amendment, or, alternatively, for an order requiring the Attorney General to file with the Ohio Secretary of State a verified copy of the Relators’ proposed “Secure and Fair Elections Amendment” together with its summary and Attorney General’s certification of it. Relators aver as follows:

### **INTRODUCTION**

1. The right of Ohio citizens to initiate a constitutional amendment and place it on the ballot so that all Ohioans may vote upon it is a right of paramount importance. In the interest of protecting Ohioans’ right to vote and expanding opportunities for exercising the right to vote, Relators have proposed that the Ohio Constitution be amended to include the “Secure and Fair Elections Amendment” (hereinafter, the “Proposed Amendment”). Relators seek to place this issue before Ohio voters on the November 3, 2020 General Election ballot—in order to do so, they must submit the signatures of at least 442,958 qualified Ohio electors to the Secretary of State by July 1, 2020. On March 2, 2020, even though all provisions of the Proposed Amendment relate to the single general object of voting, Secretary of State Frank LaRose and two other members of the Ballot Board voted to divide the Proposed Amendment into four separate amendments in clear disregard of Ohio law. This vote by Secretary LaRose, who has publicly stated his opposition to the Proposed Amendment, and the other members of the Ballot Board directly and adversely impedes Relators’ efforts to submit their full Proposed Amendment to the voters at the November 3, 2020 General Election. Their action is inconsistent with this Court’s precedent for determining

whether a proposed constitutional amendment constitutes a single amendment. In the absence of relief from this Court, the Ballot Board's action will effectively deny Relators the ability to access the November 3, 2020 ballot with the full Proposed Amendment due to the insurmountable financial costs and logistical difficulty in simultaneously circulating four initiative petitions.

### **NATURE OF THE ACTION AND JURISDICTION**

2. This is an original action in mandamus commenced pursuant to this Court's original jurisdiction under Section 2, Article IV of the Ohio Constitution and Chapter 2731 of the Ohio Revised Code, both of which governing mandamus actions, as well as under Section 1, Article XVI of the Ohio Constitution, which states "the Supreme Court shall exclusive, original jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors."

3. Relators seek an Order, Judgment, and/or Writ from this Court directing the Ohio Secretary of State to immediately convene a meeting of the Ballot Board, and ordering the Ballot Board to certify at this meeting that the Proposed Amendment contains a single constitutional amendment. Alternatively, Relators seek an Order, Judgment, and/or Writ from this Court ordering the Ohio Attorney General to file with the Ohio Secretary of State a verified copy of the Proposed Amendment as it is written, together with its summary and Attorney General's certification of it.

4. Relators affirmatively allege that they have acted with the utmost diligence in bringing the instant action within the timeframe contemplated by the Ohio Constitution, that there has been no unreasonable delay or lapse of time in asserting their rights herein and, further, that there is no prejudice to Respondents. Specifically, the action was commenced three days after the Ballot Board's March 2, 2020 determination that Relators challenge.



5. Relators lack any relief other than an Order, Judgment, and/or Writ from this Court declaring the Ballot Board's March 2, 2020 determination invalid, and an Order, Judgment, and/or Writ from this Court ordering the Ballot Board to immediately reconvene to determine that the Proposed Amendment contains a single constitutional amendment.

### **PARTIES**

6. Relator Ohioans for Secure and Fair Elections is an Ohio ballot issue committee responsible for the organization of the signature gathering effort to certify the Proposed Amendment to the November 3, 2020 General Election ballot and to support its passage by the electors.

7. Relators Darlene L. English, Laura A. Gold, Hasan Kwame Jeffries, Isabel C. Robertson, and Ebony Speakes-Hall are residents and electors of the State of Ohio and are the members of the committee designated to represent the petitioners of the Proposed Amendment pursuant to R.C. 3519.02.

8. Respondent Frank LaRose is the Ohio Secretary of State and the chief elections officer of the State of Ohio. Under Article XVI, Section 1 of the Ohio Constitution and R.C. 3505.061, the Ohio Secretary of State serves as a member and the chairperson of Respondent Ballot Board.

9. Respondent Ohio Ballot Board is the entity required by R.C. 3505.062(A) to examine, within ten days after its receipt, a citizen-initiated petition transmitted to it from the Ohio Attorney General under R.C. 3519.01 in order to determine whether the petition contains only one proposed constitutional amendment. In addition to Respondent LaRose, who serves as Chairperson, the Ballot Board currently consists of Ohio Senate President Larry Obhof, State Representative Paula Hicks-Hudson, William Morgan, and Pavan Parikh. Pursuant to R.C.

3505.061(D), the Ballot Board “shall meet at the call of the chairperson or upon the written request of three other members.”

10. Respondent Dave Yost is the Ohio Attorney General. Pursuant to R.C. 3505.062, if the Ballot Board certifies to the Attorney General that a proposed constitutional amendment contains only a single amendment, the Attorney General shall, in accordance with R.C. 3519.01(A), file with the Secretary of State a verified copy of the proposed constitutional amendment together with its summary and the Attorney General’s certification of it.

### **FACTUAL ALLEGATIONS IN SUPPORT OF CLAIM**

11. On February 10, 2020, Relators, who are seeking to place the Proposed Amendment on the November 3, 2020 General Election ballot, submitted a written petition to approve a summary of the Proposed Amendment to Ohio Attorney General Dave Yost containing the signatures of more than 1,000 qualified Ohio electors. This written petition contained a copy of the full text of the Proposed Amendment and a summary of the Proposed Amendment, both of which are attached as Exhibit A.

12. Prior to February 10, 2020, Relators’ Proposed Amendment had become public when they filed their first summary with the Attorney General. Upon the Proposed Amendment becoming public, Secretary LaRose criticized the petition effort and expressed his opposition to it. As reported by the Cincinnati Enquirer, Secretary LaRose, through a spokesperson, said that the subject addressed in the Proposed Amendment should be dealt with by the General Assembly instead of being submitted to the voters as a constitutional amendment. *See*, Jackie Borchardt, “Ohio Measure to Expand Voting Rights Could be on Ballot in November,” Cincinnati Enquirer, Jan. 22, 2020, attached as Exhibit B. This same article noted that although a bill was introduced in

August 2019 containing a proposal similar to the Proposed Amendment, the General Assembly had not even had an initial committee hearing on the bill. *Id.*

13. On February 20, 2020, pursuant to R.C. 3519.01(A), Attorney General Yost certified that the summary of the Proposed Amendment submitted by the Relators is a fair and truthful statement of the constitutional amendment. A copy of this certification is attached as Exhibit C.

14. The Proposed Amendment proposes to amend only Article V, Section 1 of the Ohio Constitution, which currently provides in its entirety:

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote.

15. As is apparent, Article V, Section 1 of the Ohio Constitution currently sets forth qualifications for voting and the requirement of registration to cast a ballot.

16. The provisions of the Proposed Amendment each relate to this single general object of voting.

17. The Proposed Amendment would only amend Article V, Section 1. It would add the language shown underlined below, and would repeal the existing language shown by strike through (current language that is not changed appears without underline or strikethrough):

Section 1.

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been is registered to vote ~~for thirty days~~, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote.

Every citizen of the United States who is, or is eligible to become, an elector in Ohio shall have the following rights:

(1) The right, if serving in the military or residing outside of the United States, to have an absentee ballot sent beginning forty-six days before an election upon application if registered.

(2) The right to be registered to vote upon applying for, renewing, updating, or replacing an Ohio driver's license, learner's permit, or identification card with the agency responsible for issuing these documents, unless the citizen affirmatively states in writing that the citizen does not want to be registered to vote.

(3) The right, if registered to vote, to obtain and cast a ballot in person on weekdays during an early voting period preceding an election, which shall begin twenty-eight calendar days before the date of each election and end the day before the election, excepting state legal holidays on which the office of the Ohio Secretary of State is not open to the public. Preceding a general election, a minimum of twelve hours of early in-person voting shall also be made available over the two days of each of the final two weekends before the election.

(4) The right, during the early voting period and on Election Day, to submit in person a voter registration form and either proof of residency or military identification to an election official at any location where the citizen would otherwise be eligible to vote if they had registered by any other method. Any one form of identification accepted for voting under Ohio law as of January 1, 2020, shall be sufficient to prove residency for this registration method if it shows the current address of the voter. Persons who register with this method shall be immediately qualified to receive and cast a regular ballot in the election. The ballot shall be counted unless election administrators demonstrate that the individual is not qualified to vote. Nothing in this paragraph shall limit other rights to register.

(5) The right of individuals with disabilities to have full and equal access to register to vote and to vote.

A representative sample of statewide elections shall be audited to ensure the accuracy and integrity of elections.

This section shall be self-executing and shall be construed in favor of voters' rights. Subsections 2 and 4 shall take effect February 1, 2022. Any one form of identification accepted for voting under Ohio law as of January 1, 2020, shall continue to be sufficient to prove identification for voting. Nothing contained in this section shall

prevent the general assembly from expanding voters' rights beyond what is provided herein.

(See, Exhibit A).

18. Upon receipt of the Attorney General's February 20, 2020 certification that the summary of the Proposed Amendment was a fair and truthful statement of the constitutional amendment, the Ballot Board was required to examine, "within ten days after its receipt," the Proposed Amendment to determine whether it contains only one proposed constitutional amendment. R.C. 3505.062(A). Ten days from February 20, 2020 was March 1, 2020. Thus, the Ballot Board was required by R.C. 3505.062(A) to act "within" the ten-day period from February 20, 2020 to March 1, 2020.

19. Despite the clear statutory mandate to act within this ten-day period, the Ballot Board did not meet to examine the Proposed Amendment until March 2, 2020, which was eleven days after February 20, 2020.

20. Relators' counsel appeared before the Ballot Board to provide public comments and answer questions from Board members. Relators' counsel also provided the Ballot Board with a memorandum of law setting forth the legal standards for determining whether a proposed constitutional amendment contains a single amendment. A copy of this memo is attached as Exhibit D, and a copy of the transcript of the March 2, 2020 Ballot Board meeting is attached as Exhibit E.

21. In his public comments and written memorandum, Relators' counsel explained to the Ballot Board that the standard for determining whether a proposed constitutional amendment contains a single amendment was most recently set forth by the Ohio Supreme Court in *State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St.3d 315, 2010-Ohio-1845, 928 N.E.2d 410. In *Ohio Liberty Council*, the Court explained that "the ballot board has a clear legal duty to liberally

construe the right of initiative, and as long as the citizen-initiated proposed amendment bears some reasonable relationship to a single general object or purpose, the board must certify its approval of the amendment as written without dividing it into multiple petitions.” *Ohio Liberty Council*, ¶ 57.

22. Relators’ counsel explained that, in *Ohio Liberty Council*, the Court held that the Ballot Board acted in clear disregard of Ohio law when it divided a proposed constitutional amendment into two amendments, one that dealt with the freedom to choose health care and health care coverage, and one that deals with the governance and oversight of the health care and health insurance industries. *See, Ohio Liberty Council*, ¶ 20, 43. Because these provisions bear some reasonable relationship to the single general object or purpose of preserving freedom of choice in health care and health-care coverage, the Court granted the relators’ requested writ of mandamus compelling the Ballot Board to immediately certify its approval of the relators’ proposed constitutional amendment, as written, to the attorney general as one amendment. *Id.* at ¶ 66.

23. Relators’ counsel stated to the Ballot Board that, under *Ohio Liberty Council*, the Proposed Amendment contains only one amendment because all its components relate to the single general object of voting.

24. In his public comments and written memorandum, Relators’ counsel also stated that based upon the Ballot Board’s past precedent, the Ballot Board should certify that the Proposed Amendment contains only one amendment.

25. The memorandum of law submitted by Relators’ counsel to the Ballot Board explained that since 2011, the Ballot Board has ruled at least thirty times that initiated constitutional amendments or laws were single subjects. These include the following: the Alternate Medical Treatment Amendment (October 21, 2011), Personhood Amendment (January 9, 2012), Ohio Medical Cannabis Amendment (January 25, 2012), Workplace Freedom Amendment

(February 9, 2012), Clean Energy Amendment I (March 1, 2012), Cannabis Rights Amendment (May 23, 2013), Clean Energy Amendment II (November 19, 2013), Ohio Voters Bill of Rights Amendment (March 13, 2014), Freedom to Marry Amendment (April 22, 2014), Clean Energy Amendment III (July 14, 2014), the Bottle Bill for Ohio Amendment (October 17, 2014), the Legal Marijuana and Hemp in Ohio Amendment (May 14, 2015), Cannabis Control Amendment (June 25, 2015), the Ohio Drug Price Relief Act (August 13, 2015), the Strengthening Term Limits on State Legislators Amendment (September 18, 2015), the Ohio Fair Wage Amendment (October 30, 2015), Clean Energy Amendment V (March 23, 2016), Ohioans for Medical Marijuana Constitutional Amendment (March 31, 2016), Ohio Cannabis Rights Amendment II (April 14, 2016), Crime Victim Rights Initiative (February 8, 2017), the Bipartisan Congressional Redistricting Reform Amendment (May 30, 2017), the Ohio Puppy Mill Prevention Amendment (September 22, 2017), the Initiative and Referendum Amendment for Counties and Townships (December 5, 2017), the Ohio Community Rights Amendment (December 5, 2017), the Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment (December 12, 2017), the Kidney Dialysis Patient Protection Amendment (February 20, 2018), the Marijuana Rights and Regulations Amendment (May 17, 2018), the Short-Term Loan Consumer Protection Amendment (May 29, 2018), an Act to Close Loopholes in Background Checks on Gun Sales (July 22, 2019), and the Raise the Wage Ohio Amendment (February 5, 2020). And just moments before addressing the Proposed Amendment at its March 2, 2020 meeting, the Ballot Board ruled for at least the 31<sup>st</sup> time since 2011 that an additional proposed constitutional amendment, the Lifetime General Assembly Term Limits Amendment, contained a single amendment.

26. In his public comments, Relators' counsel highlighted one of these many constitutional amendments that the Ballot Board had previously determined contained a single

amendment, the “Ohio Voters Bill of Rights” (2014). A copy of the Ohio Voters Bill of Rights is attached as Exhibit F. Similar to the Proposed Amendment, the Ohio Voters Bill of Rights proposed amending Article V, Section 1 of the Ohio Constitution. However, as explained by Relators’ counsel, the Ohio Voters Bill of Rights was much lengthier and more expansive in scope than the Proposed Amendment. It proposed repealing the existing language of Article V, Section 1 in its entirety and replacing it with nine subsections that addressed various voting topics, including the following:

- a. Setting forth the qualifications of an elector.
- b. Requiring citizens to be registered in order to vote.
- c. Requiring the State to maintain the broadest feasible and accessible means for persons to register and update their voter registration, including through electronic means.
- d. Setting election day voting hours.
- e. Allowing local election authorities to designate more than one location at which an elector may cast their ballot.
- f. Establishing an in-person or by mail early voting period beginning 35 days before each election and setting a minimum number of hours during this early voting period during which electors can vote early in-person.
- g. Establishing absentee voting requirements.
- h. Establishing voter identification requirements necessary to cast a ballot.
- i. Requiring that voters’ ballots not be rejected for a reason attributable in whole or in part to poll worker error.



- j. Establishing a requirement that local election authorities seek to determine the voter's intent on ballots.
- k. Establishing rules for counting provisional ballots cast in a voter's county but incorrect precinct.
- l. Establishing other requirements for casting and counting provisional ballots/
- m. Allowing the State to institute additional reliable means of voting that becomes available through technological advancements.
- n. Allowing the General Assembly to pass laws expanding and facilitating the rights and opportunities guaranteed by the proposal.
- o. Setting forth that a person who commits certain acts of voter fraud would be guilty of a felony.

27. Despite the expansiveness of the "Ohio Voters Bill of Rights," the Ballot Board certified in 2014 that it contained a single amendment.

28. After receiving public comment, and despite the self-evident common object of the Proposed Amendment (voting), the members of the Ballot Board voted 3-2 to find that the Proposed Amendment contains four unconnected subjects: (1) "casting ballots"; (2) "the manner in which one becomes a registered voter and the time that registration is effective"; (3) the right for "citizens with disabilities to register to vote and to vote"; and (4) "post-election audits." *See*, Ballot Board's March 2, 2020 Certification to Ohio Attorney General, attached as Exhibit G.

29. Based on this determination, the Ballot Board divided the Proposed Amendment into four separate amendments. *See, id.*

30. In a March 2, 2020 Letter to the Ohio Attorney General, the Ballot Board's Secretary wrote that the "first" amendment "consists of the Petitioners' proposed subsections (1)

and (3); the first sentence of the unnumbered last paragraph; and the third and fourth sentences of the unnumbered last paragraph.” *Id.*

31. This “first” amendment would consist of the following provisions from the Proposed Amendment: the right if serving in the military or residing outside the United States to, upon application, be sent an absentee ballot beginning 46 days before an election if registered to vote; the right, if registered, to obtain and cast a ballot in person on weekdays during an early voting period, which shall begin 28 days before each election and end the day before the election, excepting state legal holidays on which the Secretary of State’s office is not open to the public, and, for each of the final 2 weekends before a general election, include a minimum of 12 hours over the two days of each weekend; the provision that any one form of ID accepted for voting under Ohio law as of January 1, 2020, shall continue to be sufficient to prove identification for voting; and the provision that the Amendment would be self-executing and construed in favor of voters’ rights, and that nothing would prevent the general assembly from expanding voters’ rights beyond what is provided in the Amendment. *See*, full text of Proposed Amendment attached as Exhibit A.

32. In his March 2, 2020 letter, the Ballot Board’s Secretary wrote that the “second” amendment “consists of the Petitioners’ proposed changes to the current text of Article V, Section 1; Petitioners’ proposed subsections (2) and (4); and the second sentence of the unnumbered last paragraph.” *See*, Exhibit G.

33. This “second” amendment would consist of the following provisions from the Proposed Amendment: the provision removing the existing language in Article V, Section 1 of the Ohio Constitution that citizens be registered to vote for 30 days to be electors (but that would maintain the requirement to be registered); the right, which would take effect February 1, 2022, to

be registered to vote upon applying for, renewing, updating, or replacing an Ohio driver's license, learner's permit, or identification card with the agency responsible for issuing these documents, unless the citizen affirmatively states in writing that they do not want to be registered to vote; the right, which would take effect February 1, 2022, during the early voting period and on Election Day, to submit in person a voter registration form and either proof of residency or military ID to an election official at any location where the citizen would otherwise be eligible to vote if they had registered by any other method; the provision that any one form of ID accepted for voting under Ohio law as of January 1, 2020 would be sufficient to prove residency for this registration method if it also shows the voter's current address; the provision that persons who register with this method shall be immediately qualified to receive and cast a regular ballot in the election, and the ballot shall be counted unless election administrators demonstrate that the individual is not qualified to vote; and the language stating that this provision shall not limit other rights to register. *See*, full text of Proposed Amendment attached as Exhibit A.

34. In his March 2, 2020 letter, the Ballot Board Secretary wrote that the "third" amendment "consists of the Petitioners' proposed subsection (5)." *See*, Exhibit G.

35. This "third" amendment would consist of the following provision from the Proposed Amendment: the right of individuals with disabilities to have full and equal access to register to vote and to vote. *See*, full text of Proposed Amendment attached as Exhibit A.

36. In his March 2, 2020 letter, the Ballot Board Secretary wrote that the "fourth" amendment "consists of the Petitioners' unnumbered sentence regarding post-election audits." *See*, Exhibit G.

37. This "fourth" amendment would consist of the following provision from the Proposed Amendment: the provision requiring a representative sample of statewide elections to be

audited to ensure the accuracy and integrity of elections. *See*, full text of Proposed Amendment attached as Exhibit A.

38. The parsing of the Proposed Amendment is further shown by a color-coded copy of the Proposed Amendment that the three members of the Ballot Board created in private during a recess called by Secretary LaRose. A copy of this document is attached as Exhibit H.

39. Dividing the Proposed Amendment into four separate petitions requires Relators to collect *four times* as many valid signatures than they would otherwise have to collect if the Proposed Amendment was a single petition, as written—this would total nearly *two million* valid signatures. Signature collection is an expensive and time- and people-intensive endeavor. Requiring Relators to collect nearly two million valid signatures would certainly stretch—if not quickly deplete—Relators’ resources, thus imposing an enormous burden upon Relators’ attempts to exercise their rights of initiative as to the substance of the Proposed Amendment.

#### **CLAIM FOR WRIT OF MANDAMUS:**

##### **The Ballot Board Abused Its Discretion and Acted in Clear Disregard of the Law by Failing to Certify that the Proposed Amendment Contains Only One Amendment**

40. Each and every allegation contained above is incorporated as if fully rewritten herein.

41. The standard for “gauging the propriety of the ballot board’s determination” is whether they “engaged in fraud, corruption, or abuse of discretion or acted in clear disregard of applicable legal provisions.” *Ohio Liberty Council*, at ¶ 30. “[I]n the absence of any evidence of fraud or corruption, the dispositive issue is whether the ballot board abused its discretion and clearly disregarded applicable law” in determining that Relators’ initiative petition contained four proposed constitutional amendments, in dividing the petition into four, and in certifying the four proposed amendments to the Attorney General. *Id.*

42. Article II, Section 1 of the Ohio Constitution provides, in relevant part, that “the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided.”

43. Article II, Section 1 of the Ohio Constitution provides further that “[t]he limitations expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.”

44. Under Article XVI, Section 1 of the Ohio Constitution, the General Assembly is authorized to propose a constitutional amendment by joint resolution, and one of the requirements specified therein for a legislatively initiated proposed constitutional amendment is that each amendment be submitted separately to the electors: “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.”

45. R.C. 3519.01(A) imposes a similar requirement on citizen-initiated proposed constitutional amendments:

Only one proposal of law or constitutional amendment to be proposed by initiative petition shall be contained in an initiative petition to enable the voters to vote on that proposal separately. A petition shall include the text of any existing statute or constitutional provision that would be amended or repealed if the proposed law or constitutional amendment is adopted.

46. R.C. 3505.062 provides that:

The Ohio ballot board shall do all of the following:

(A) Examine, within ten days after its receipt, each written initiative petition received from the attorney general under section 3519.01 of the Revised Code to *determine whether it contains only one proposed law or constitutional amendment so as to enable the voters to vote on a proposal separately*. If the board

so determines, it shall certify its approval to the attorney general, who then shall file with the secretary of state in accordance with division (A) of section 3519.01 of the Revised Code a verified copy of the proposed law or constitutional amendment together with its summary and the attorney general's certification of it.

*If the board determines that the initiative petition contains more than one proposed law or constitutional amendment, the board shall divide the initiative petition into individual petitions containing only one proposed law or constitutional amendment so as to enable the voters to vote on each proposal separately and certify its approval to the attorney general.* If the board so divides an initiative petition and so certifies its approval to the attorney general, the petitioners shall resubmit to the attorney general appropriate summaries for each of the individual petitions arising from the board's division of the initiative petition, and the attorney general then shall review the resubmissions as provided in division (A) of section 3519.01 of the Revised Code.

(Emphasis added.)

47. In *Ohio Liberty Council*, this Court explained that “[b]ecause this separate-petition requirement is comparable to the separate-vote requirement for legislatively initiated constitutional amendments under Section 1, Article XVI of the Ohio Constitution, our precedent construing the constitutional provision is instructive in constructing the statutory requirement.” *Ohio Liberty Council*, at ¶ 41.

48. As to the Court's precedent construing the separate-vote requirement, the Court set forth the test for determining compliance with this requirement in its 2005 decision in *State ex rel Willke v. Taft*, 107 Ohio St.3d 1, 2005-Ohio-5303, 836 N.E.2d 536, ¶ 34. *Ohio Liberty Council*, at ¶ 41. The applicable test is that “‘a proposal consists of one amendment to the Constitution only so long as each of its subjects bears some reasonable relationship to a single *general* object or purpose.’” *Willke*, at ¶ 34 quoting *State ex rel. Roahrig v. Brown*, 30 Ohio St.2d 82, 85, 282 N.E.2d 584 (1972) (emphasis original).

49. Further, “where an amendment to the Constitution relates to a single purpose or object and all else contained therein is incidental and reasonably necessary to effectuate the purpose of the amendment, such amendment is not violative of the provisions of Section 1, Article XVI.” *Id.* quoting *State ex rel. Burton v. Greater Portsmouth Growth Corp.*, 7 Ohio St.2d 34, 36, 218 N.E.2d 116 (1966).

50. Courts have “generally taken a ‘liberal view in interpreting what such a single general purpose or object may be.’” *Id.* quoting *Foreman*, 10 Ohio St.2d at 146.

51. The Court in *Willke* also compared the separate-vote requirement of Section 1, Article XVI to the one-subject rule of Section 15(D), Article II, noting that they “are comparable, but not identical” and that the separate-vote requirement is less strict than the one-subject rule. *Willke*, at ¶ 29; *see also, id.* at ¶ 30, quoting *State ex rel. Foreman v. Brown*, 10 Ohio St.2d 139, 145, 226 N.E.2d 116 (1967) (“Nevertheless, we have recognized that the separate-vote requirement is broader than the one-subject requirement because ‘there is nothing in the Constitution of Ohio that requires an amendment thereof, proposed by the General Assembly pursuant to Section 1 of Article XVI, to be confined to one subject, purpose or object.’”).

52. Yet, even under the stricter one-subject rule, the Court has “afforded the General Assembly ‘great latitude in enacting comprehensive legislation by not construing the one-subject provision so as to unnecessarily restrict the scope and operation of laws, or to multiply their number excessively, or to prevent legislation from embracing in one act all matters properly connected with one general object.’” *Willke*, at ¶ 35 quoting *Ohio Civ. Serv. Emp. Assn.*, 104 Ohio St.3d 122, 2004-Ohio-6363, 818 N.E.2d 688, ¶ 27. That Court explained that “[t]he mere fact that a bill embraces more than one topic is not fatal, as long as a common purpose or relationship exists between the topics.” *Willke*, at ¶ 35 (internal quotations and citations omitted). And that “[t]o

conclude that a bill violates the one-subject rule, a court must determine that the bill includes a disunity of subject matter such that there is no discernible practical, rational, or legitimate reason for combining the provisions in one act.” *Id.* (internal quotations and citations omitted).

53. “All that is required is that the act should not include legislation so incongruous that it could not, by any fair intendment, be considered germane to one general subject. The subject may be as comprehensive as the legislature chooses to make it, provided it constitutes, in the constitutional sense, a single subject, and not several. The connection or relationship of several matters, such as will render them germane to one subject and to each other, can be of various kinds, as, for example, of means to ends, of different subdivisions of the same subject, or that all are designed for the same purpose, or that both are designated by the same term. Neither is it necessary that the connection or relationship should be logical; it is enough that the matters are connected with and related to a single subject, in popular signification.” *Willke*, at ¶ 37 quoting *New Jersey Assn. on Corr. v. Lan*, 80 N.J. 199, 215 (1979) (internal quotations omitted).

54. In *Willke*, the Court applied this test to Am.Sub.H.J.R. 2 of the 126<sup>th</sup> General Assembly, and concluded that “although the issuance of state bonds for the public-works, Third Frontier, and business-facilities projects may represent different components, they are all reasonably related to the single general purpose of job creation or economic development in Ohio. The General Assembly's combination of these three programs in one amendment -- although seemingly the product of a tactical decision -- is not so incongruous that it could not, by any reasonable interpretation, be considered germane to the purposes of statewide job creation and economic development.” *Willke*, at ¶ 38.



55. Similarly, in *Foreman*, this Court upheld a proposed a constitutional amendment that both (1) created a bond commission; and (2) specified the purposes for which money could be raised and used. *Willke*, at ¶ 39 citing *Foreman*, 10 Ohio St.2d 139.

56. In *Burton*, the Court held that the proposal to adopt Section 13, Article VIII did not violate the separate-vote requirement even though it affected several constitutional provisions “because it related to the single, general purpose of allowing the state and government subdivisions to give financial assistance to private industry or other governmental units to create new employment within the state.” *Willke*, at ¶ 39 citing *Burton*, 7 Ohio St.2d at 36.

57. Based on this rich precedent construing the separate-vote requirement of Section 1, Article XVI, the Court in *Ohio Liberty Council* explained that “[b]y imposing the separate-vote requirement on citizen-initiated proposed amendments, therefore, the General Assembly could not diminish citizens’ constitutional right of initiative by construing that requirement more strictly than the similar constitutional requirement applicable to the legislative right of initiative.” *Ohio Liberty Council*, at ¶ 56.

58. The Court in *Ohio Liberty Council* then explained that “the ballot board has a clear legal duty to liberally construe the right of initiative,” and that “as long as the citizen-initiated proposed amendment bears some reasonable relationship to a single general object or purpose, the board must certify its approval of the amendment as written without dividing it into multiple petitions.” *Id.*

59. Applying this standard to the relators’ proposed constitutional amendment, the Court in *Ohio Liberty Council* held that the Ballot Board acted in clear disregard of Ohio law when it divided a proposed constitutional amendment into two amendments, one that dealt with the freedom to choose health care and health care coverage, and one that deals with the governance

and oversight of the health care and health insurance industries. *See, Ohio Liberty Council*, ¶ 20, 43. Because these provisions bear some reasonable relationship to the single general object or purpose of preserving freedom of choice in health care and health-care coverage, the Court granted the relators’ requested writ of mandamus compelling the Ballot Board to immediately certify its approval of the relators’ proposed constitutional amendment, as written, to the attorney general as one amendment. *Id.* at ¶ 66.

60. Based on the standard announced in *Ohio Liberty Council* and the Court’s precedent construing the separate-vote requirement in Section 1, Article XVI, the Proposed Amendment contains only a single amendment.

61. Indeed, each of the Proposed Amendment’s provisions “bear some reasonable relationship” to the single general object of voting:

- a. In the first paragraph of the Proposed Amendment, the removal of the existing requirement that citizens be registered to vote for at least 30 days to be an elector relates to who is eligible to vote.
- b. The second paragraph, which states that every citizen who is, or is eligible to become an elector, shall have the five subsequent specified rights, is “incidental and reasonably necessary” to effectuate the five subsequent, numbered subsections.
- c. The provision in Subsection 1 giving the right, if serving in the military or residing outside the United States to, upon application, be sent an absentee ballot beginning 46 days before an election if registered to vote relates to who is eligible to vote and the manner in which they can vote.
- d. The provision in Subsection 2 concerning the right to be registered to vote upon applying for, renewing, updating, or replacing an Ohio driver’s license, learner’s

permit, or identification card with the agency responsible for issuing these documents, unless the citizen affirmatively states in writing that they do not want to be registered to vote relates to the manner in which citizens can become eligible to vote.

- e. The provision in Subsection 3 concerning the right, if registered, to vote during an early voting period when read alongside the amended language in the first paragraph and the language in Subsection 4 relates to when people can become eligible to vote and the manner in which people can exercise their right to vote.
- f. The provision in Subsection 4 concerning the right to register to vote during the early voting period and on Election Day relates to the manner in which people can become eligible to vote.
- g. The provision in Subsection 5 concerning the right of individuals with disabilities to have full and equal access to register and to vote relates to the manner in which people can be eligible to vote and the manner which they can exercise this right.
- h. The paragraph concerning the audit of statewide elections relates to ensuring accuracy in the counting of electors' votes.
- i. The first sentence of the last unnumbered paragraph, which states that the section shall be self-executing and construed in favor of voters' rights, is incidental and reasonably necessary to effectuate the rest of the Proposed Amendment.
- j. The second sentence of the last unnumbered paragraph concerns the effective date of Subsections 2 and 4, and is, therefore, incidental and reasonably necessary to effectuate these aspects of the Proposed Amendment.

- k. The third sentence of the last unnumbered paragraph concerning acceptable forms of identification to prove identification for voting relates to the manner in which people prove that they are eligible to cast a vote.
  - l. The fourth sentence of the last unnumbered paragraph, which states that nothing in the proposal “shall prevent the general assembly from expanding voters’ rights beyond what is provided herein,” is incidental and reasonably necessary to effectuate the rest of the Proposed Amendment.
62. Further, there is no disunity of subject matter of the Proposed Amendment “such that there is no discernible practical, rational, or legitimate reason for combining the provisions in one act.” *Willke*, at ¶ 35.
63. Moreover, and although this is not the legal standard, the Proposed Amendment and the summary of it that was approved by the Attorney General are sufficiently clear so as to be understandable and not misleading to ordinary citizens.
64. In determining whether there has been a clear disregard of applicable legal provisions, past practices and precedents of the Ohio Ballot Board can be taken into account.
65. In the absence of clear guidelines, past practices become policy.
66. Notions of fairness and justice require the Ballot Board to uniformly apply the requirement set forth in R.C. 3505.062.
67. The Ballot Board’s March 2, 2020 ruling is inconsistent with prior Ballot Board rulings, and it is demonstrative of an abuse of discretion and disregard of applicable law.
68. At least thirty-one times since 2011, the Ballot Board has ruled that complex initiated constitutional amendments or proposed laws contained one amendment or one law.

69. These prior rulings of the Ballot Board include its 2014 ruling that the “Ohio Voters Bill of Rights Amendment,” which proposed significantly more expansive changes to Article V, Section 1 of the Ohio Constitution compared to Relators’ Proposed Amendment, contained only a single amendment.

70. The Ballot Board abused its discretion and acted in clear disregard of the law by certifying Relators’ Proposed Amendment as containing four proposed constitutional amendments.

71. The Ballot Board has a clear legal duty to liberally construe the right of initiative and to certify the Proposed Amendment as written without dividing it into multiple petitions, and the Attorney General has a clear legal duty to file with the Secretary of State a verified copy of the Proposed Amendment, as written, together with its summary and the Attorney General’s certification of it.

72. Relators have a clear legal right to have their Proposed Amendment certified by the Ballot Board as containing one constitutional amendment, and a clear legal right to have the Attorney General file with the Secretary of State a verified copy of the Proposed Amendment, as it is written, together with its summary and the Attorney General’s certification of it.

73. Relators lack an adequate remedy in the ordinary course of law.

### **PRAYER FOR RELIEF**

WHEREFORE, Relators respectfully pray the Court to grant the following relief:

- A. Issue a Peremptory Writ of Mandamus or Writ of Mandamus directing the Ohio Secretary of State to convene a meeting of the Ohio Ballot Board, and directing the Ohio Ballot Board to certify that Relators’ Proposed Amendment contains only one constitutional amendment and to certify such to the Attorney General;

- B. In the alternative, issue a Peremptory Writ of Mandamus or Writ of Mandamus directing the Ohio Attorney General to file with the Secretary of State a verified copy of the Proposed Amendment, as it is written, together with its summary and the Attorney General's certification of it, as required by R.C. 3519.01;
- C. Issue an Alternative Writ setting forth an expedited briefing schedule;
- D. Assess the costs of this action against Respondents;
- E. Award Relators' their attorneys' fees and expenses; and
- F. Award such other relief as may be appropriate, including but not limited to, and extension of days by which Relators may continue to gather signatures, so as to atone for the delay associated with the Ohio Ballot Board's wrongful conduct.

Respectfully submitted,

/s/ Freda J. Levenson

Freda J. Levenson\* (0045916)

*\*Counsel of Record*

ACLU of Ohio Foundation

4506 Chester Ave.

Cleveland, OH 44103

Tel: [REDACTED]

Fax: [REDACTED]

David J. Carey (0088787)

ACLU of Ohio Foundation

1108 City Park Avenue, Suite 203

Columbus, OH 43206

Tel: [REDACTED]

Fax: [REDACTED]

Dale Ho (Pro Hac Vice Pending)

American Civil Liberties Union

125 Broad Street

New York, NY 10004

Tel: [REDACTED]

Tel: [REDACTED]

Phone: [REDACTED]

### *Counsel for Relators*

**IN THE SUPREME COURT OF OHIO**

**STATE EX REL. OHIOANS FOR SECURE  
AND FAIR ELECTIONS, et al.**

**Relators,**

**-v-**

**FRANK LAROSE, et al.**

**Respondents.**

**CASE NO.**

**ORIGINAL ACTION IN  
MANDAMUS**

**ALTERNATIVE AND  
PEREMPTORY WRITS  
REQUESTED**

**AFFIDAVIT OF DONALD J. MCTIGUE**

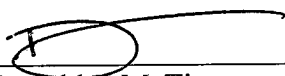
Franklin County  
/ss  
State of Ohio

I, Donald J. McTigue, having been duly sworn and cautioned according 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 herein, and further state as follows:

1. I am an attorney at law, licensed in the State of Ohio, and counsel for Relators in the instant action.
2. I am the legal counsel that was responsible for the drafting of the proposed "Secure and Fair Elections Amendment" that is the subject matter of this action.
3. I was present at the Ohio Ballot Board's March 2, 2020 meeting, and at this meeting, I provided public comment and submitted a memorandum of law to the Ohio Ballot Board concerning the proposed Secure and Fair Elections Amendment.
4. I have read the facts set forth in the foregoing Complaint, and the facts as stated therein are true.
5. I have personally read copies of all exhibits referenced in the Complaint, and state that they are true copies of what they purport to be.



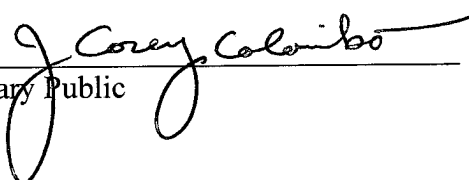
FURTHER AFFIANT SAYETH NAUGHT

  
\_\_\_\_\_  
Donald J. McTigue

Sworn to and subscribed before me this 5<sup>th</sup> day of March, 2020



JOHN COREY COLOMBO  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.

  
\_\_\_\_\_  
Notary Public

# **Exhibit A**

The Summary and Full Text of the Proposed Amendment

# McTigue & Colombo LLC

ATTORNEYS AT LAW

DONALD J. MCTIGUE  
J. COREY COLOMBO  
DEREK S. CLINGER  
BEN F.C. WALLACE

545 EAST TOWN STREET  
COLUMBUS, OHIO 43215

(614) 263-7000 | [WWW.ELECTIONLAWGROUP.COM](http://WWW.ELECTIONLAWGROUP.COM)

February 10, 2020

**RECEIVED**

FEB 10 2020

Ohio Attorney General  
Constitutional Offices Section

The Honorable Dave Yost  
Ohio Attorney General  
30 E. Broad Street  
Columbus, Ohio 43215

**Via Hand Delivery**

***Re: The Secure and Fair Elections Amendment (Resubmission)***

Dear Attorney General Yost:

On behalf of my clients, Ohioans for Secure and Fair Elections and petition committee members Darlene L. English, Laura A. Gold, Hasan Kwame Jeffries, Isabel C. Robertson, and Ebony Speakes-Hall, and pursuant to R.C. 3519.01(A), I am hereby filing with your office a petition to approve a summary of a constitutional amendment to be proposed by initiative petition titled the Secure and Fair Elections Amendment. The petition contains approximately 2,351 signatures on 101 part-petitions and the summary and full text of the amendment to be proposed. A chart containing the number of part-petitions and signatures from each county is attached to this letter.

This is the second submission of the Secure and Fair Elections Amendment. It was previously submitted to your office on January 22, 2020, but on January 31, 2020, you rejected the proposed summary. In your January 31, 2020 letter, you identified two reasons for rejecting the summary. First, you stated that the "summary of the proposed constitutional amendment is longer than the proposed amended text itself." Second, you stated that the summary "includes a paragraph of text that it is not included in the proposed amendment," describing this as "extraneous information that is outside the text of the amendment." On the resubmission, the "extraneous information" has been removed from the summary. The resulting word-counts for the summary and the full text of the amendment—counted both by hand and using Microsoft Word—are 453 words and 525 words, respectively (not counting bullet points as words). Thus, both issues have been resolved.

Finally, this second submission contains two changes from the version that was previously submitted to your office. An exception for "state legal holidays" was added to the language in Subsection 1 defining the early voting period, and a delayed effective date (of February 1, 2022) was added for Subsections 2 and 4, which concern automatic voter registration and same-day voter registration, respectively.

Please contact me at 614-263-7000 or [dmctigue@electionlawgroup.com](mailto:dmctigue@electionlawgroup.com) if you have any questions. Thank you.

Very truly yours,



Donald J. McTigue

Encls.

County: DELAWARE

Number: 00001

## PETITION

**To the Attorney General of Ohio:** Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

### TITLE

The Secure and Fair Elections Amendment

### SUMMARY

The Amendment would amend Article V, Section 1 of the Ohio Constitution to:

- Remove the provision that citizens be registered to vote for 30 days to be electors, but maintain the requirement to be registered.
- Provide the following rights to every citizen who is, or is eligible to become, an Ohio elector:
  - The right if serving in the military or residing outside the United States to, upon application, be sent an absentee ballot beginning 46 days before an election if registered to vote.
  - The right to be registered to vote upon applying for, renewing, updating, or replacing an Ohio driver's license, learner's permit, or identification card with the agency responsible for issuing these documents, unless the citizen affirmatively states in writing that they do not want to be registered to vote. This provision shall take effect February 1, 2022.
  - The right, if registered, to obtain and cast a ballot in person on weekdays during an early voting period, which shall begin 28 days before each election and end the day before the election, excepting state legal holidays on which the Secretary of State's office is not open to the public, and, for each of the final 2 weekends before a general election, include a minimum of 12 hours over the two days of each weekend.
  - The right, during the early voting period and on Election Day, to submit in person a voter registration form and either proof of residency or military ID to an election official at any location where the citizen would otherwise be eligible to vote if they had registered by any other method. This provision shall take effect February 1, 2022.
    - Any one form of ID accepted for voting under Ohio law as of January 1, 2020 shall be sufficient to prove residency for this registration method if it also shows the voter's current address.
    - Persons who register with this method shall be immediately qualified to receive and cast a regular ballot in the election, and the ballot shall be counted unless election administrators demonstrate that the individual is not qualified to vote.
    - This provision shall not limit other rights to register.
  - The right of individuals with disabilities to have full and equal access to register to vote and to vote.
- Provide that any one form of ID accepted for voting under Ohio law as of January 1, 2020, shall continue to be sufficient to prove identification for voting.
- Require a representative sample of statewide elections to be audited to ensure the accuracy and integrity of elections.
- Provide that the Amendment shall be self-executing and construed in favor of voters' rights, and that nothing shall prevent the general assembly from expanding voters' rights beyond what is provided in the Amendment.

## COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Darlene L. English	15332 Lake Shore Blvd., Cleveland, Ohio 44110
Laura A. Gold	4433 Groveland Rd., University Heights, Ohio 44118
Hasan Kwame Jeffries	196 Balsam Dr., Pickerington, Ohio 43147
Isabel C. Robertson	1965 Mornington Ln., Apt. 8, Cleveland Heights, Ohio 44106
Ebony Speakes-Hall	6617 English Oaks, Middletown, Ohio 45044

## FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article V, Section 1, of the Ohio Constitution is hereby amended to add the following language shown underlined below, and repeal the existing language shown by strikethrough. Current language that is not changed appears without underline or strikethrough:

### Section 1.

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and ~~has been~~ is registered to vote ~~for thirty days~~, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote.

Every citizen of the United States who is, or is eligible to become, an elector in Ohio shall have the following rights:

(1) The right, if serving in the military or residing outside of the United States, to have an absentee ballot sent beginning forty-six days before an election upon application if registered.

(2) The right to be registered to vote upon applying for, renewing, updating, or replacing an Ohio driver's license, learner's permit, or identification card with the agency responsible for issuing these documents, unless the citizen affirmatively states in writing that the citizen does not want to be registered to vote.

(3) The right, if registered to vote, to obtain and cast a ballot in person on weekdays during an early voting period preceding an election, which shall begin twenty-eight calendar days before the date of each election and end the day before the election, excepting state legal holidays on which the office of the Ohio Secretary of State is not open to the public. Preceding a general election, a minimum of twelve hours of early in-person voting shall also be made available over the two days of each of the final two weekends before the election.

(4) The right, during the early voting period and on Election Day, to submit in person a voter registration form and either proof of residency or military identification to an election official at any location where the citizen would otherwise be eligible to vote if they had registered by any other method. Any one form of identification accepted for voting under Ohio law as of January 1, 2020, shall be sufficient to prove residency for this registration method if it shows the current address of the voter. Persons who register with this method shall be immediately qualified to receive and cast a regular ballot in the election. The ballot shall be counted unless election administrators demonstrate that the individual is not qualified to vote. Nothing in this paragraph shall limit other rights to register.

(5) The right of individuals with disabilities to have full and equal access to register to vote and to vote.

A representative sample of statewide elections shall be audited to ensure the accuracy and integrity of elections.

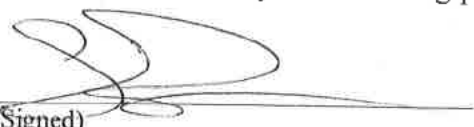
This section shall be self-executing and shall be construed in favor of voters' rights. Subsections 2 and 4 shall take effect February 1, 2022. Any one form of identification accepted for voting under Ohio law as of January 1, 2020, shall continue to be sufficient to prove identification for voting. Nothing contained in this section shall prevent the general assembly from expanding voters' rights beyond what is provided herein.

STATEMENT OF CIRCULATOR

I, Samantha DePaul, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of 2 electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by

Advanced Micro Targeting 5157 Alpha Rd., Suite 501 Dallas, TX 75240  
(Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

I further declare under penalty of election falsification that I witnessed the affixing of every signature to the foregoing petition paper, that all signers were to the best of my knowledge and belief qualified to sign, and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

  
(Signed)

76 N Portage Path #3  
(Address of circulator's permanent residence)  
Number and Street, Road or Rural Route

Akron  
City, Village or Township

OH  
State

44303  
Zip Code

**WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY  
OF A FELONY OF THE FIFTH DEGREE.**

## **Exhibit B**

January 22, 2020 Cincinnati Enquirer Article



## Ohio measure to expand voting rights could be on ballot in November

Jackie Borchardt, Cincinnati Enquirer

Published 4:07 p.m. ET Jan. 22, 2020 | Updated 7:12 p.m. ET Jan. 22, 2020



A proposed Ohio constitutional amendment would allow voters to register to vote and cast a ballot on the same day. (Photo: Enquirer file)

COLUMBUS – Ohioans could vote this November to expand voting rights and enshrine them in the state constitution.

A coalition led by the ACLU of Ohio filed initial paperwork and signatures for "The Secure and Fair Elections Amendment"

(<https://www.ohioattorneygeneral.gov/getattachment/9595f2b9-c2d4-4fcf-8173-75860e184701/The-Secure-and-Fair-Elections-Amendment.aspx>) with the Ohio attorney general on Wednesday. The step is the first in a months-long process that requires signatures from at least 442,958 registered voters to make it on the ballot.

The proposed amendment would allow Ohioans to register and cast a ballot on the same day during the early voting period, including on Election Day. It would also enact automatic voter registration. Eligible citizens would be registered to vote when applying for, renewing or updating an Ohio driver's license, learner's permit or state ID card at the Ohio Bureau of Motor Vehicles unless they opt out.

The measure would make several Ohio election procedures part of the constitution such as a 28-day early voting period and ensuring military members and overseas voters receive their ballots in enough time for their votes to count.

If passed, the measure would join 18 states with some type of automated voter registration, according to the National

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In a statement, the ACLU of Ohio said it would formally begin the Ohioans for Secure and Fair Elections campaign in the coming weeks.

"In the process of building a non-partisan, broadly representative buckeye coalition, we've had ongoing conversations with Ohio veterans, faith-based groups, members of the disability rights community, advocacy and legal organizations, and the consensus is clear: it's time to remove unnecessary barriers to the ballot and make sure that our elections are secure and fair, ensuring all eligible voters are heard and our democracy is strengthened," J. Bennett Guess, executive director for the ACLU of Ohio said in a statement.

The amendment also:

- Guarantees voters with disabilities have full and equal access to register and cast a ballot,
- Requires at least 12 hours of early, in-person voting on the last two Saturdays and Sundays before a general election and
- Requires election audits.

The measure follows a [successful ACLU of Michigan voting rights initiative \(/story/news/politics/elections/2018/11/06/michigan-voting-proposal-3-results/1885266002/\)](#) that passed there in 2018 with nearly 67% of the vote. The Michigan ACLU led and funded the effort there and was joined by labor unions, the NAACP and progressive groups. It was opposed by the Michigan Republican Party and Michigan Chamber of Commerce, as well as the secretary of state, a Republican at the time.

Ohio Secretary of State Frank LaRose, the state's chief election official, [has called for automated voter registration in Ohio \(/story/news/politics/2019/04/24/automatic-voter-registration-has-bipartisan-support-in-ohio/3562581002/\)](#). But he supports that happening through the Legislature instead of constitutional amendment.

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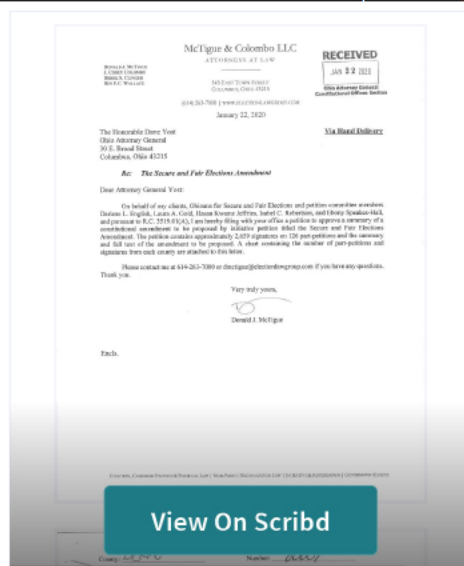
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"The devil is always in the details with these things, and history tells us that often times reforms should be debated and determined by the General Assembly rather than being enshrined in the Constitution," LaRose, a Republican, said through a spokeswoman. "Major, successful change comes when Republicans and Democrats in the legislature work together, and that's happening right now in the Ohio Senate with our bipartisan legislation that would modernize Ohio's entire voter registration system."

[Senate Bill 186 \(https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-186\)](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-186) would make it easier to people to register at the BMV by pre-filling voter registration forms. But the voter would still have to opt in by pressing a button. The bipartisan measure was introduced in August but has not even had an initial committee hearing.

[Petition 2020 Secure and Fair Elections \(https://www.scribd.com/document/443929970/Petition-2020-Secure-and-Fair-Elections#from\\_embed\)](https://www.scribd.com/document/443929970/Petition-2020-Secure-and-Fair-Elections#from_embed) by CincinnatiEnquirer [https://www.scribd.com/user/258980507/CincinnatiEnquirer#from\\_embed](https://www.scribd.com/user/258980507/CincinnatiEnquirer#from_embed) on Scribd



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## **Exhibit C**

Attorney General's February 20, 2020 Certification of the Summary of  
the Proposed Amendment



# DAVE YOST

OHIO ATTORNEY GENERAL

Constitutional Offices Section  
Office 614-466-2872  
Fax 614-728-7592

February 20, 2020

*Via regular U.S. Mail and E-mail*

Donald J. McTigue  
McTigue & Colombo LLC  
545 East Town St.  
Columbus, Ohio 43215  
dmctigue@electionlawgroup.com

Re: Submitted Petition for Initiated Constitutional Amendment to Amend Article V, Section 1 of the Ohio Constitution — “The Secure and Fair Elections Amendment (Resubmission)”

Dear Mr. McTigue,

On February 10, 2020, in accordance with Ohio Revised Code (“ORC”) Section 3519.01(A), I received a written petition containing (1) a copy of a proposed constitutional amendment to amend Article V, Section 1, and (2) a summary of the same measure.

It is my statutory duty to determine whether the submitted summary is a “fair and truthful statement of the proposed law or constitutional amendment.” ORC Section 3519.01(A). If I conclude that the summary is fair and truthful, I am to certify it as such within ten days of receipt of the petition. In this instance, the tenth day falls on Thursday, February 20, 2020.

Having examined the submission, I conclude that the summary is a fair and truthful statement of the proposed amendment. I therefore submitted the following certification to the Ohio Secretary of State:

Without passing on the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon the Attorney General’s Office under Section 3519.01(A) of the Ohio Revised Code, I hereby certify that the summary is a fair and truthful statement of the proposed amendment.

Yours,

Dave Yost  
Ohio Attorney General

cc: Committee to Represent the Petitioners

Darlene L. English  
15332 Lake Shore Boulevard  
Cleveland, Ohio 44110

Isabel C. Robertson  
1965 Mornington Lane, Apartment 8  
Cleveland Heights, Ohio 44106

Laura A. Gold  
4433 Groveland Road  
University Heights, Ohio 44118

Ebony Speakes-Hall  
6617 English Oaks  
Middletown, Ohio 45044

Hasan Kwame Jeffries  
196 Balsam Drive  
Pickerington, Ohio 43147



# DAVE YOST

OHIO ATTORNEY GENERAL

Constitutional Offices Section  
Office 614-466-2872  
Fax 614-728-7592

February 20, 2020

Ohio Secretary of State Frank LaRose  
180 E. Broad St.  
Columbus, Ohio 43215

Re: Submitted Petition for Initiated Constitutional Amendment to Amend Article V, Section 1 of the Ohio Constitution —“The Secure and Fair Elections Amendment (Resubmission)”

Dear Mr. LaRose,

On February 10, 2020, in accordance with Ohio Revised Code (“ORC”) Section 3519.01(A), I received a written petition containing (1) a copy of a proposed constitutional amendment to amend Article V, Section 1 of the Ohio Constitution, and (2) a summary of the same measure.

It is my statutory duty to determine whether the submitted summary is a “fair and truthful statement of the proposed law or constitutional amendment.” ORC Section 3519.01(A). If I conclude that the summary is fair and truthful, I am to certify it as such within ten days of receipt of the petition. In this instance, the tenth day falls on Thursday, February 20, 2020.

Having examined the submission, I conclude that the summary is a fair and truthful statement of the proposed amendment. I therefore submit the following certification to the Ohio Secretary of State:

Without passing on the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon the Attorney General’s Office under Section 3519.01(A) of the Ohio Revised Code, I hereby certify that the summary is a fair and truthful statement of the proposed amendment.

Yours,

A handwritten signature in blue ink that reads "Dave Yost".

Dave Yost  
Ohio Attorney General

cc: Amanda Grandjean, Esq., Director of Elections (*by email*)  
Michael Grodhaus, Esq., Chief Legal Counsel (*by email*)  
Andrew J. King, Esq., Legal Counsel (*by email*)

## **Exhibit D**

Relators' Memorandum of Law Submitted to the Ohio Ballot Board on  
March 2, 2020



# McTigue & Colombo LLC

ATTORNEYS AT LAW

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## MEMORANDUM

TO: Ohio Ballot Board

FROM: Donald J. McTigue

DATE: March 2, 2020

RE: Analysis Supporting Certification of the Secure and Fair Elections Amendment as Proposing a Single Constitutional Amendment

### I. OVERVIEW

This office represents the petitioners of the proposed the Secure and Fair Elections Amendment (the “Petitioners”), who respectfully request that the Ohio Ballot Board certify, under Ohio Revised Code Section 3505.062, that the Petitioners’ proposed initiative petition (“Initiative Petition”) is one proposed constitutional amendment.

On February 10, 2020, the Committee filed with the Ohio Attorney General a petition containing the signatures of more than 1,000 qualified electors of Ohio, setting forth the full text of the Secure and Fair Elections Amendment and a summary of the text. On February 20, 2020, the Attorney General, pursuant to Ohio Revised Code Section 3519.01(A), certified the summary as “a fair and truthful statement of the proposed law.”

The Ohio Ballot Board (the “Ballot Board”) must determine whether the Initiative Petition contains a single proposed constitutional amendment. The Petitioners respectfully submit this memorandum in support of their position that the Initiative Petition proposes a single constitutional amendment under the applicable rule set forth by the Supreme Court of Ohio.

### II. LEGAL ANALYSIS

#### A. The Proposed Constitutional Amendment Is Clearly One Amendment Under Established Case Law

In *State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St.3d 315 (2010), the Ohio Supreme Court held:

Because this separate-petition requirement is comparable to the separate-vote requirement for legislatively initiated constitutional amendments under Section 1, Article XVI of the Ohio Constitution, our precedent construing the constitutional provision is instructive

in construing the statutory requirement. In *State ex rel. Willke v. Taft*, we set forth the test for determining satisfaction of the separate-vote requirement:

“[T]he applicable test for determining compliance with the separate-vote requirement of Section 1, Article XVI is that ‘a proposal consists of one amendment to the Constitution only so long as each of its subjects bears some reasonable relationship to a single *general* object or purpose.’ . . . ‘Thus, where an amendment to the Constitution relates to a single purpose or object and all else contained therein is incidental and reasonably necessary to effectuate the purpose of the amendment, such amendment is not violative of the provisions of Section 1, Article XVI.’ . . . Courts have generally taken a ‘liberal [view] in interpreting what such a single general purpose or object may be.’

\* \* \*

The power of initiative must be liberally construed, and the General Assembly cannot diminish that power. . . . By imposing the separate-vote requirement on citizen-initiated proposed amendments, therefore, the General Assembly could not diminish citizens’ constitutional right of initiative by construing that requirement more strictly than the similar constitutional requirement applicable to the legislative right of initiative.

Based on the foregoing, **the ballot board has a clear legal duty to liberally construe the right of initiative, and as long as the citizen-initiated proposed amendment bears some reasonable relationship to a single general object or purpose, the board must certify its approval of the amendment as written without dividing it into multiple petitions.** . . .

See ¶¶ 41, 42, 56, 57 (citations omitted and emphasis supplied).

Here, the Initiative Petition pertains to a single general object, namely, voting. All the provisions of the Amendment relate to this general object. None of the components relate to an incongruous subject.

#### **B. The Proposed Amendment Amends Only One Section of the Ohio Constitution Which Supports the Position that it is One Constitutional Amendment.**

The Initiative Petition seeks to amend Article V, Section 1. Because the current Initiative Petition seeks only to amend this one article and section and all of the provisions reasonably relate to a single general object of voting, it is clear that the Initiative Petition contains only one proposed constitutional amendment.

### **C. Ohio Ballot Board Precedent Supports the Position that the Proposed Constitutional Amendment is One Amendment.**

Notions of fairness and justice require the Ballot Board to uniformly apply the single subject rule set forth in Ohio Revised Code Section 3505.062. At least thirty times since 2011, the Ballot Board has ruled that initiated constitutional amendments or laws were single subjects. These include: the Alternate Medical Treatment Amendment (October 21, 2011), Personhood Amendment (January 9, 2012), Ohio Medical Cannabis Amendment (January 25, 2012), Workplace Freedom Amendment (February 9, 2012), Clean Energy Amendment I (March 1, 2012), Cannabis Rights Amendment (May 23, 2013), Clean Energy Amendment II (November 19, 2013), Voter Bill of Rights Amendment (March 13, 2014), Freedom to Marry Amendment (April 22, 2014), Clean Energy Amendment III (July 14, 2014), the Bottle Bill for Ohio Amendment (October 17, 2014), the Legal Marijuana and Hemp in Ohio Amendment (May 14, 2015), Cannabis Control Amendment (June 25, 2015), the Ohio Drug Price Relief Act (August 13, 2015), the Strengthening Term Limits on State Legislators Amendment (September 18, 2015), the Ohio Fair Wage Amendment (October 30, 2015), Clean Energy Amendment V (March 23, 2016), Ohioans for Medical Marijuana Constitutional Amendment (March 31, 2016), Ohio Cannabis Rights Amendment II (April 14, 2016), Crime Victim Rights Initiative (February 8, 2017), the Bipartisan Congressional Redistricting Reform Amendment (May 30, 2017), the Ohio Puppy Mill Prevention Amendment (September 22, 2017), the Initiative and Referendum Amendment for Counties and Townships (December 5, 2017), the Ohio Community Rights Amendment (December 5, 2017), the Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment (December 12, 2017), the Kidney Dialysis Patient Protection Amendment (February 20, 2018), the Marijuana Rights and Regulations Amendment (May 17, 2018), the Short-Term Loan Consumer Protection Amendment (May 29, 2018), an Act to Close Loopholes in Background Checks on Gun Sales (July 22, 2019), and the Raise the Wage Ohio Amendment (February 5, 2020).

In *Ohio Liberty Council*, one of the last times that the Ballot Board divided a proposed constitutional amendment into multiple petitions, the Ohio Supreme Court granted a writ of mandamus “to compel the Ballot Board to immediately certify its approval of relators’ proposed constitutional amendment, as drafted, to the attorney general as one amendment.” 125 Ohio St.3d at 325, ¶66. In that matter, the Ballot Board argued in its merit brief that four of the five sections of the proposed constitutional amendment all related to the single general purpose or object of preserving freedom of choice of health care and health-care coverage; however, the remaining section (Section C) did not because its “‘unintended consequences’ ‘transcend the availability and terms of coverage’ and, if passed, it would ‘fundamentally rework the way Ohio regulates the insurance industry.’” At the Ballot Board hearing itself, the Board appeared to acknowledge that Section C did relate to a single purpose or object, but that a different section (Section D), which specifies exceptions to the amendment, constituted a separate amendment because it “‘deals with the governance and oversight of the health care and health insurance industries’ rather than ‘the freedom to choose health care and health care coverage.’”

The Court was not persuaded by the Ballot Board’s arguments and held that the Ballot Board “abused its discretion and clearly disregarded R.C. 3505.062 in so concluding, regardless of whether it relied on Section C or Section D of the proposed amendment.” *Id.* at ¶45. The Court stated:

In applying this test to relators' proposed constitutional amendment here, we hold that the proposal consists of one amendment because all the sections contained therein bear some reasonable relationship to the single general purpose of preserving Ohioans' freedom to choose their health care and health-care coverage as it existed on March 19, 2010, with certain exceptions, before the enactment of the Patient Protection and Affordable Care Act. Section 21(A) preserves this freedom of choice by prohibiting the government from compelling any person, employer, or health-care provider to participate in any health-care system. Section 21(B) advances the freedom of choice by forbidding the government to prohibit the purchase or sale of health care or health-care insurance. As relators observe, persons', employers', and health-care providers' choices of health care and health-care insurance will be inhibited if their ability to choose between different providers is limited. Moreover, it is manifest that Section 21(E) of the proposed amendment, which merely provides definitions for some of the terms used in the other sections of the amendment, relates to the single purpose as well. . . .

125 Ohio St.3d at 321.

In the pending matter, the Ballot Board should determine the Initiative Petition contains only one proposed constitutional amendment based upon the Board's precedent and based upon the Ohio Supreme Court's ruling one of the last times the Board reached a different determination.

### **III. CONCLUSION**

Because the constitutional amendment proposed by the Initiative Petition bears a reasonable relationship to a single general object or purpose, the Ballot Board must certify its approval of the amendment as written without dividing it into multiple amendments.

## **Exhibit E**

Transcript of the March 2, 2020 Ohio Ballot Board Meeting

<p style="text-align: center;">1</p> <p>1           BEFORE THE STATE OF OHIO BALLOT BOARD</p> <p>2                               - - -</p> <p>3     In the Matter of the       :</p> <p>4     Examination of a Proposed   :</p> <p>5     Constitutional Amendment   :</p> <p>6     Submitted as "The Secure     :</p> <p>7     and Fair Elections           :</p> <p>8     Amendment (Resubmission)"   :</p> <p>9     to Determine Whether it     :</p> <p>10    Contains Only One           :</p> <p>11    Proposed Amendment         :</p> <p>12                               - - -</p> <p>13                   EXCERPT ONLY OF PROCEEDINGS</p> <p>14    before Secretary of State Frank LaRose;</p> <p>15    Senator Larry Obhof; Representative Paula</p> <p>16    Hicks-Hudson; Mr. William N. Morgan; and</p> <p>17    Mr. Pavan Parikh, Ohio Ballot Board, Ohio</p> <p>18    Statehouse, 1 Capitol Square, Senate Finance</p> <p>19    Hearing Room, Columbus, Ohio 43215, called at</p> <p>20    11:06 a.m. on Monday, March 2, 2020.</p> <p>21                               - - -</p> <p>22                                               Higgins &amp; Associates</p> <p>23                                               4889 Sinclair Road, Suite 102</p> <p>24                                               Columbus, OH 43229-5433</p> <p>25                                               *614.985.DEPO (3376) *888.244.1211</p>	<p style="text-align: center;">3</p> <p>1                               P R O C E E D I N G S</p> <p>2                               - - -</p> <p>3                   SECRETARY LaROSE: Next we move on</p> <p>4     to public comment regarding an amendment that's</p> <p>5     been placed before us that's been titled the Secure</p> <p>6     and Fair Elections Amendment. At this point, we've</p> <p>7     got some witnesses here for the Secure and Fair</p> <p>8     Elections Amendment.</p> <p>9                   Again speaking for the amendment,</p> <p>10    Don McTigue. Mr. McTigue, welcome back.</p> <p>11                   MR. MCTIGUE: Thank you,</p> <p>12    Mr. Secretary, members of the Ohio Ballot Board.</p> <p>13    This will be of course a little repetitive, but in</p> <p>14    order to make a complete record distinct from the</p> <p>15    prior matter, I'll introduce myself again as</p> <p>16    Donald McTigue of the firm of McTigue &amp; Colombo.</p> <p>17    We represent the five committee members, name and</p> <p>18    the face of the petition, and the political action</p> <p>19    committee called Ohioans for Secure and Fair</p> <p>20    Elections that is promoting this ballot issue.</p> <p>21                   With the secretary's permission, I'd</p> <p>22    like to --</p> <p>23                   SECRETARY LaROSE: Go ahead.</p> <p>24                   MR. MCTIGUE: -- provide a memo for</p> <p>25    distribution.</p>
<p style="text-align: center;">2</p> <p>1     BOARD MEMBERS:</p> <p>2       The Honorable Frank LaRose, Chairperson</p> <p>3       The Honorable Larry Obhof</p> <p>4       The Honorable Paula Hicks-Hudson</p> <p>5       William N. Morgan</p> <p>6       Pavan V. Parikh</p> <p>7     APPEARANCES:</p> <p>8       Donald J. McTigue, Esquire</p> <p>9       McTigue &amp; Colombo LLC</p> <p>10       54 East Town Street</p> <p>11       Columbus, Ohio 43215</p> <p>12       (614) 263-7000</p> <p>13               On behalf of the Petitioners.</p> <p>14       Anne Marie Sferra, Esquire</p> <p>15       Bricker &amp; Eckler LLP</p> <p>16       100 South Third Street</p> <p>17       Columbus, Ohio 43215</p> <p>18       (614) 227-2394</p> <p>19               On behalf of the Ohio Republican</p> <p>20       Party.</p> <p>21     Also Present: Jeff Hobday</p> <p>22                               - - -</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p>1                   The standard set by the Ohio Supreme</p> <p>2     Court in the State ex rel. Ohio Liberty Council</p> <p>3     versus Brunner case, which was a case against the</p> <p>4     Ohio Ballot Board, when the Ballot Board split into</p> <p>5     two issues an initiated amendment having to do with</p> <p>6     preserving freedom of choice on healthcare. And</p> <p>7     the Ballot Board had concluded that four out of</p> <p>8     five parts of it all were had a common purpose, but</p> <p>9     the fifth, which related to insurance, did not</p> <p>10    because it essentially bled into, if you will, the</p> <p>11    regulation of insurance in general.</p> <p>12                   The Ohio Supreme Court, however,</p> <p>13    held that the Ohio Ballot Board abused its</p> <p>14    discretion, because according to the standard that</p> <p>15    the court set, the Ballot Board failed to follow</p> <p>16    the correct standard. That standard again for the</p> <p>17    record is that the proposed amendment or the parts</p> <p>18    of the proposed amendment must bear some reasonable</p> <p>19    relationship to a single general object or purpose.</p> <p>20                   That's a very broad standard. The</p> <p>21    court noted that essentially it's the exact same</p> <p>22    standard that is applied to the Ohio General</p> <p>23    Assembly when it passes legislation, and it</p> <p>24    includes oftentimes things that people might argue</p> <p>25    are unrelated. But the court has noted that it is</p>

<p style="text-align: right;">5</p> <p>1 permissible to include subject matters that might</p> <p>2 at one level appear unrelated, but that still, they</p> <p>3 serve a common single purpose or a common single</p> <p>4 object, that they bear some reasonable relationship</p> <p>5 to that single purpose or object.</p> <p>6 Now, what is I think especially</p> <p>7 pertinent here today with regard to the proposed</p> <p>8 amendment on voting rights is that in 2014, there</p> <p>9 was an initiative petition filed called the Ohio</p> <p>10 Voter Bill of Rights, which was twice as expansive</p> <p>11 as the current proposal. It had twice as many</p> <p>12 subject matter -- subjects. And the issue was</p> <p>13 whether or not those had a common object or common</p> <p>14 purpose.</p> <p>15 There's an overlap, actually,</p> <p>16 between many of the provisions in the 2014 Voter</p> <p>17 Bill of Rights and the petition that is before you</p> <p>18 today. The one today is actually steps back and</p> <p>19 doesn't go as far as the previous one.</p> <p>20 In 2014, this Ohio Ballot Board</p> <p>21 concluded that there was only one subject, one</p> <p>22 amendment served by that petition in 2014. There's</p> <p>23 no reason today to differ from that precedent,</p> <p>24 which was only six years ago. Today like in 2014,</p> <p>25 the proposal has a common purpose or common</p>	<p style="text-align: right;">7</p> <p>1 go before the voter. You're here only to determine</p> <p>2 whether or not the subject matter bears some</p> <p>3 reasonable relationship to a single purpose or</p> <p>4 object.</p> <p>5 I'd be happy to try to answer any</p> <p>6 questions on the single-subject review.</p> <p>7 SECRETARY LaROSE: Questions for</p> <p>8 Mr. McTigue?</p> <p>9 Representative Hicks-Hudson.</p> <p>10 REPRESENTATIVE HICKS-HUDSON: Thank</p> <p>11 you, Mr. Chair.</p> <p>12 I guess my only, my question is, you</p> <p>13 speak about voting and the eligibility. Would you</p> <p>14 agree with me that really what we're saying is that</p> <p>15 it's the -- it's the whole package that allows a</p> <p>16 citizen the ability, and it sets out the parameters</p> <p>17 for which that citizen is able to vote, and as you</p> <p>18 say, it builds upon what the Constitution already</p> <p>19 has for us?</p> <p>20 MR. McTIGUE: Yes. Mr. Secretary,</p> <p>21 Representative Paula Hicks-Hudson, yes, that is</p> <p>22 correct. It's, every single provision in here is</p> <p>23 about voting in public elections in the state of</p> <p>24 Ohio.</p> <p>25 SECRETARY LaROSE: Further questions</p>
<p style="text-align: right;">6</p> <p>1 subject. The common purpose or subject is voting</p> <p>2 or voting and registration. Everything in the</p> <p>3 proposal today relates in some way to voting.</p> <p>4 In fact, the provisions that are in</p> <p>5 the amendment are all contained within</p> <p>6 Article V, Section 1. That section already exists</p> <p>7 in the Constitution. It is a section on who has</p> <p>8 the right to vote. It actually deals with</p> <p>9 residency, registration, and the right to cast a</p> <p>10 ballot. It goes on to deal with some other things,</p> <p>11 as well, such as when you don't vote after so many</p> <p>12 years what happens to your registration.</p> <p>13 The proposal today just builds upon</p> <p>14 that foundation. That, what is in the Constitution</p> <p>15 right now, is a common purpose, is a single common</p> <p>16 purpose. It is about voting and registering to</p> <p>17 vote. And what you have before you today, every</p> <p>18 single one of these, as I said, relates to</p> <p>19 registration and voting.</p> <p>20 So this is not about a policy</p> <p>21 determination. It's not about whether any member</p> <p>22 of the Ohio Ballot Board feels that voters should</p> <p>23 be able to vote on these parts separately. That's</p> <p>24 not your job. It's not, you're not here to make a</p> <p>25 policy determination about what -- how much should</p>	<p style="text-align: right;">8</p> <p>1 for Mr. McTigue?</p> <p>2 All right. Seeing none, thank you</p> <p>3 so much.</p> <p>4 MR. McTIGUE: Thank you.</p> <p>5 SECRETARY LaROSE: We do appreciate</p> <p>6 it.</p> <p>7 Next up, we have Anne Marie Sferra,</p> <p>8 who is here to offer testimony I believe with the</p> <p>9 opinion that this issue should not be one issue.</p> <p>10 Ms. Sferra, welcome to the committee. Look forward</p> <p>11 to hearing your testimony.</p> <p>12 MS. SFERRA: Secretary LaRose and</p> <p>13 members of the Ballot Board, my name is Anne Marie</p> <p>14 Sferra. I'm with the law firm of Bricker &amp; Eckler,</p> <p>15 and I'm here on behalf of the Ohio Republican Party</p> <p>16 to request that the proposed amendment be divided.</p> <p>17 A citizen-initiated petition such as</p> <p>18 the proposed amendment before you, which is titled</p> <p>19 the Secure and Fair Elections Amendment, must</p> <p>20 contain only one proposal of law or constitutional</p> <p>21 amendment. More specifically, the Revised Code</p> <p>22 3519.01 (A) states, Only one proposal of law or</p> <p>23 constitutional amendment to be proposed by</p> <p>24 initiative petition shall be contained on an</p> <p>25 initiative petition to enable the voters to vote on</p>

<p style="text-align: center;">9</p> <p>1 that proposal separately. The General Assembly</p> <p>2 included this requirement in Ohio law in 2006.</p> <p>3 Under Revised Code 3505.062, this</p> <p>4 board has the duty to determine whether the</p> <p>5 proposed Secure and Fair Elections Amendment</p> <p>6 contains only one proposal or constitutional</p> <p>7 amendment or whether the initiative petition</p> <p>8 contains more than one proposal or constitutional</p> <p>9 amendment, and therefore should be divided and</p> <p>10 voted on separately.</p> <p>11 This requirement serves two primary</p> <p>12 goals, and these goals were set forth by the Ohio</p> <p>13 Supreme Court in the Liberty Council case.</p> <p>14 The first goal is to protect the</p> <p>15 public from presentation of a proposal which is</p> <p>16 misleading or the effect of which is concealed or</p> <p>17 not readily understandable.</p> <p>18 And the second goal is to prevent</p> <p>19 logrolling, which is the combining of unrelated</p> <p>20 proposals in order to secure approval by appealing</p> <p>21 to different groups which will support the entire</p> <p>22 proposal in order to secure some part of it, even</p> <p>23 though they might not be in favor of the entire</p> <p>24 proposal.</p> <p>25 So with this as a backdrop, let's</p>	<p style="text-align: center;">11</p> <p>1 amendment, the petitioners themselves have divided</p> <p>2 the proposed amendment into five numbered sections</p> <p>3 and have also added language in unnumbered</p> <p>4 sections. So here's a brief description of each</p> <p>5 topic covered in the proposed amendment, and I'm</p> <p>6 going to start with the numbered paragraphs.</p> <p>7 So numbered paragraph 1, this</p> <p>8 proposed amendment pertains to military and</p> <p>9 overseas voters, known as UOCAVA voters, and it</p> <p>10 puts into the Constitution that absentee ballots</p> <p>11 are to be sent to UOCAVA voters 46 days before an</p> <p>12 election. And I think you're all familiar with</p> <p>13 what a UOCAVA voter is, but basically that's an</p> <p>14 acronym for the Uniformed and Overseas Citizens</p> <p>15 Absentee Voting Act, which is a federal law. So</p> <p>16 basically this provision is putting that into the</p> <p>17 Constitution. This section then deals with a</p> <p>18 particular class of individuals' absentee voting</p> <p>19 rights.</p> <p>20 Moving on to Section 2 of the full</p> <p>21 text of the proposed amendment, this section puts</p> <p>22 into the Constitution the right of a voter to be</p> <p>23 automatically registered to vote upon applying for</p> <p>24 or renewing such things as a driver's license or a</p> <p>25 learner's permit at the BMV when they do that. So</p>
<p style="text-align: center;">10</p> <p>1 review the Secure and Fair Elections Amendment to</p> <p>2 see why it should be divided into multiple</p> <p>3 proposals. So I'm looking at the actual full text</p> <p>4 of the proposed amendment, and as you will see,</p> <p>5 there are five subdivisions set forth in that. So</p> <p>6 that's what I'm going to be talking about.</p> <p>7 We're going to start with the title,</p> <p>8 the Secure and Fair Elections Amendment. One need</p> <p>9 look no further than the title of the amendment</p> <p>10 itself to see that it covers multiple subjects,</p> <p>11 secure elections and fair elections. Inherently,</p> <p>12 security and fairness are two entirely separate</p> <p>13 subjects themselves.</p> <p>14 For instance, if a law required all</p> <p>15 voters to travel to one and only one location in</p> <p>16 the state of Ohio to vote in person on one specific</p> <p>17 day and then required multiple forms of ID in order</p> <p>18 to cast that vote, one might say that the election</p> <p>19 would be more secure. But that would not increase</p> <p>20 the fairness of the election. In fact, holding an</p> <p>21 election like this would be unfair. So security</p> <p>22 and fairness in and of themselves are two separate</p> <p>23 things.</p> <p>24 But beyond the title, as you can see</p> <p>25 by looking at the full text of the proposed</p>	<p style="text-align: center;">12</p> <p>1 this section deals with the method in which a</p> <p>2 citizen can register to vote.</p> <p>3 And if you look at No. 2 and compare</p> <p>4 it to No. 1, you'll see that the method by which a</p> <p>5 citizen is automatically registered to vote is not</p> <p>6 reasonably related or incidental to UOCAVA voters'</p> <p>7 rights to an absentee ballot. They're separate and</p> <p>8 distinct.</p> <p>9 The third section of the proposed</p> <p>10 amendment deals with putting into the Constitution</p> <p>11 the right of a voter to 28 calendar days of early</p> <p>12 in-person voting and at least 12 hours of early in-</p> <p>13 person voting over two days of each of the final</p> <p>14 two weekends before an election. Thus, this</p> <p>15 section deals with the days and hours of early in-</p> <p>16 person voting.</p> <p>17 Again, when you compare these to the</p> <p>18 other sections, you see that the subject of this</p> <p>19 proposal is not reasonably related or incidental to</p> <p>20 UOCAVA voters' rights to an absentee ballot, the</p> <p>21 method by which a citizen is auto- -- or the method</p> <p>22 by which a citizen is automatically registered to</p> <p>23 vote.</p> <p>24 Section 4 of the proposed amendment</p> <p>25 puts into the Constitution the right of a voter to</p>



<p style="text-align: right;">13</p> <p>1 register to vote and to vote on that same day,  2 including on Election Day. And it also involves  3 the type of ID sufficient to do this. Thus,  4 Section 4 deals with same-day registration and  5 voting and ID that can be used for registering and  6 voting on the same day.</p> <p>7 The subject of this proposal is not  8 reasonably related to UOCAVA absentee ballots; the  9 method by which a citizen is automatically  10 registered to vote, which is Section 2; the days  11 and hours required for in -- early in-person  12 voting, which is Section 3.</p> <p>13 And then the fifth and final  14 numbered paragraph or section of the proposed  15 amendment puts into the Constitution the right of  16 citizens with disabilities to have full and equal  17 access to register to vote and to vote. Thus, this  18 section deals with disabled voters' access to  19 register to vote and access to vote.</p> <p>20 Again, the subject of this proposal  21 is not reasonably related to the other four  22 enumerated paragraphs which we've gone through.</p> <p>23 So each of these numbered sections  24 has an independent meaning which is separate from  25 the other sections. And because each of these</p>	<p style="text-align: right;">15</p> <p>1 February 1st, 2022.</p> <p>2 We believe that these provisions in  3 these unnumbered paragraphs should be combined so  4 that the deletion of the 30-day registration period  5 should go along with Section 4, which has to do  6 with same-day registration and voting, because you  7 shouldn't delete the 30-day provision without  8 having the same time frame apply to that as  9 Section 4.</p> <p>10 And similarly, the effective date of  11 the same -- of the automatic registration at the  12 BMV should be combined with the effective date  13 that's in the unnumbered paragraph.</p> <p>14 So in short, the Secure and Fair  15 Election Amendment before you is comprised of  16 several discrete amendments, most of which should  17 be voted on on a separate proposal, because there  18 is not a sufficiently singular purpose to present  19 all of these proposals to voters in a single ballot  20 initiative. As a result, it is suggested that the  21 board divide the proposed amendment into six  22 proposals, one for each of the five enumerated  23 sections and one for the audit provision.</p> <p>24 Alternatively, another way to look  25 at this, but we don't think the best way, would be</p>
<p style="text-align: right;">14</p> <p>1 numbered sections provides a discrete proposal that  2 should be presented and voted upon separately, the  3 proposed amendments should be divided accordingly.</p> <p>4 In addition to the five numbered  5 sections that I just mentioned, there are a few  6 other provisions in the proposed amendment that I'd  7 like to mention, as well.</p> <p>8 First, there is a provision for an  9 audit that reads as follows, and I quote, A  10 representative sample of statewide elections shall  11 be audited to ensure the accuracy and integrity of  12 elections, end of quote.</p> <p>13 Clearly, this audit provision is not  14 reasonably related or incidental to any of the  15 other sections of the proposed amendment. As such,  16 it too should be voted on separately.</p> <p>17 Second, the opening paragraph of the  18 proposed amendment deletes the constitutional  19 provision of a 30-day registration period to  20 qualify as an elector in Ohio.</p> <p>21 And third, there is a provision  22 in -- there is a provision that Sections 2, which  23 pertain to automatic voter registration at the BMV,  24 and Section 4, which pertains to same-day  25 registration and voting, will take effect on</p>	<p style="text-align: right;">16</p> <p>1 to divide the amendment into proposals in four  2 broad categories. Those broad categories would  3 have to do with No. 1, casting a ballot; No. 2,  4 register -- registration related to becoming an  5 elector; No. 3, the rights of citizens with  6 disabilities to register to vote and to vote; and  7 No. 4, requiring audits to ensure the accuracy and  8 integrity of the election.</p> <p>9 And if you were to break it into  10 those broad categories, I could explain which  11 sections went where if there's any reason to do  12 that. But overall, the purpose, there are discrete  13 purposes, and any one of these provisions can stand  14 alone.</p> <p>15 I'd like to address the Liberty  16 Council decision, because I know that that is  17 something that Mr. McTigue has put in front of the  18 board, and obviously, the Ballot Board's very  19 familiar with it.</p> <p>20 When you look at the standard, the  21 sentence right -- the sentence in paragraph 42  22 right after the standard that Mr. McTigue presented  23 to you is, Thus, when an amendment to the  24 Constitution relates to a single purpose or object  25 and all else contained therein is incidental and</p>

<p style="text-align: right;">17</p> <p>1 reasonably necessary to effectuate the purpose of</p> <p>2 the amendment, such amendment is not violative of</p> <p>3 the provision having to do with the General</p> <p>4 Assembly's initiative, which is Section 1,</p> <p>5 Article XVI of the Constitution.</p> <p>6 Here, as I've already demonstrated,</p> <p>7 the provisions are not incidental and reasonably</p> <p>8 necessary to effectuate the purpose of the</p> <p>9 amendment. Each one can stand alone on its own.</p> <p>10 And this would be the preferred course; otherwise,</p> <p>11 we would be reading out of the requirement that the</p> <p>12 voter should vote on them separately. Obviously, a</p> <p>13 voter wants to avoid voter confusion. We want to</p> <p>14 promote informed decision-making, and we want to</p> <p>15 prevent logrolling.</p> <p>16 And again, in the Liberty Council</p> <p>17 case, the Supreme Court not only looked at the</p> <p>18 purpose, but it independently reviewed whether or</p> <p>19 not there was logrolling. I found none in that</p> <p>20 particular case.</p> <p>21 Here however, this appears to be a</p> <p>22 classic example of logrolling. Because it might be</p> <p>23 that a voter would be in favor of access to</p> <p>24 disabled voters for registration and to vote, but</p> <p>25 might not be in favor of same-day registration, yet</p>	<p style="text-align: right;">19</p> <p>1 MS. SFERRA: That part of the</p> <p>2 Constitution which is not changed, the only -- that</p> <p>3 paragraph that you're reading from is not changed,</p> <p>4 does not in the opinion, in our opinion lead to all</p> <p>5 of these discrete standards being incorporated</p> <p>6 therein. This is basically various provisions of</p> <p>7 the Revised Code already for some of these things</p> <p>8 being added into the Constitution.</p> <p>9 And they -- this specific provision</p> <p>10 deals with, you know, who has the eligibility or</p> <p>11 qualification to vote, not how that voting has to</p> <p>12 occur, how the registration takes place, when</p> <p>13 the -- when the early voting takes place or any of</p> <p>14 that. I don't think that the preamble here</p> <p>15 necessarily encompasses all of these discrete</p> <p>16 provisions. And I do think it can be not only</p> <p>17 confusing to a voter, but incorporates some aspects</p> <p>18 that you might be in favor of and not be in favor</p> <p>19 of, and have no choice but to vote up or down.</p> <p>20 REPRESENTATIVE HICKS-HUDSON: I</p> <p>21 think --</p> <p>22 May I?</p> <p>23 SECRETARY LaROSE: Please.</p> <p>24 REPRESENTATIVE HICKS-HUDSON: I</p> <p>25 think I understand your position. And I'm trying</p>
<p style="text-align: right;">18</p> <p>1 they could not be able to vote for one without the</p> <p>2 other.</p> <p>3 As a result, we urge the Ballot</p> <p>4 Board to divide this proposed amendment</p> <p>5 accordingly. Thank you.</p> <p>6 SECRETARY LaROSE: Thank you so</p> <p>7 much, Ms. Sferra.</p> <p>8 Questions for the witness?</p> <p>9 Representative Hicks-Hudson.</p> <p>10 REPRESENTATIVE HICKS-HUDSON: Thank</p> <p>11 you, Mr. Chair.</p> <p>12 Thank you for your analysis.</p> <p>13 However, I'm confused because you start with the</p> <p>14 section dealing with the military able -- ability</p> <p>15 to vote. But how do you base your argument when</p> <p>16 you ignore the first sen- -- that sentence that</p> <p>17 pre- -- that precedes it, Every citizen of the</p> <p>18 United States who is eligible, who is or is</p> <p>19 eligible to become an elector in Ohio shall have</p> <p>20 the following rights? Does that not in and of</p> <p>21 itself create the single-subject basis for these</p> <p>22 subsections that relate to what the right is of</p> <p>23 every citizen?</p> <p>24 MS. SFERRA: May I respond?</p> <p>25 SECRETARY LaROSE: Please.</p>	<p style="text-align: right;">20</p> <p>1 to -- to see how that does not actually support the</p> <p>2 fact that this is dealing with one subject, which</p> <p>3 is the ability of an eligible citizen in Ohio to be</p> <p>4 able to vote, depending upon that person's</p> <p>5 circumstance.</p> <p>6 Because as you just said, currently</p> <p>7 right now, an Ohioan who is in the military and is</p> <p>8 out of state can use the federal regulations in</p> <p>9 order to vote, and the court has and the state has</p> <p>10 recognized that. The way that a person is able to</p> <p>11 access the ballot to vote, it's currently in</p> <p>12 existence now.</p> <p>13 So these particular sections that</p> <p>14 you highlight in some respect are already in place.</p> <p>15 They're already operating. So how does that lead</p> <p>16 to confusion? How does that lead to actual</p> <p>17 logrolling when citizens already know how that they</p> <p>18 can either early vote, how they can vote absentee,</p> <p>19 how they can register to vote? All we're doing is</p> <p>20 giving additional opportunities for persons to be</p> <p>21 able to vote. So how is that going to cause</p> <p>22 confusion?</p> <p>23 MS. SFERRA: Well, what it does is</p> <p>24 it's trying to put all of these various aspects</p> <p>25 into the Constitution itself, correct? So voters</p>

<p style="text-align: right;">21</p> <p>1 should have the opportunity, because these are each</p> <p>2 separate, to vote as to them separately. That's</p> <p>3 the entire purpose of the amendment that was made</p> <p>4 in 2006, so that only one proposal of law or</p> <p>5 constitutional amendment be proposed by initiative</p> <p>6 petition and shall be contained to enable the</p> <p>7 voters to vote on that proposal separately.</p> <p>8               Each of these are different</p> <p>9 subdivisions or different Revised Code provisions</p> <p>10 to the extent that they already exist in law. Not</p> <p>11 all of them do exist in law. And therefore, just</p> <p>12 because there's, you know, voting is the subject</p> <p>13 doesn't mean everything relates specifically to</p> <p>14 that.</p> <p>15               And the audit is a perfect example.</p> <p>16 I mean, the audit really doesn't have anything to</p> <p>17 do with casting a vote or with respect to</p> <p>18 registering to vote.</p> <p>19               And so we get back to, you know,</p> <p>20 this, at a very, very high level, you could say</p> <p>21 something like we're making a change to criminal</p> <p>22 law; but there's many different aspects of that.</p> <p>23 There's misdemeanors, there's felonies, there's</p> <p>24 other things. So you have to look at the specific</p> <p>25 language that is presented to you in the amendment</p>	<p style="text-align: right;">23</p> <p>1 specific proposal in front of me. What I would say</p> <p>2 is this is a different Ballot Board and it's a</p> <p>3 different proposal, and it has to be looked at</p> <p>4 independently.</p> <p>5               REPRESENTATIVE HICKS-HUDSON: Thank</p> <p>6 you.</p> <p>7               SECRETARY LaROSE: I have a few</p> <p>8 questions, just sort of jumping off of</p> <p>9 Representative Hicks-Hudson's questions and also</p> <p>10 referring back to your testimony.</p> <p>11               So first of all, the concept of</p> <p>12 logrolling, something that we're familiar with here</p> <p>13 around the statehouse; but for the average person,</p> <p>14 it's basically when you take something relatively</p> <p>15 uncontroversial and wrap it around something that</p> <p>16 may be more controversial as a way to sort of, you</p> <p>17 know, put several different ideas into one thing.</p> <p>18 In my opinion, this seems to do that, and</p> <p>19 specifically with three and a half areas that are</p> <p>20 really already law and fully functional here in the</p> <p>21 state.</p> <p>22               And so as I look through this,</p> <p>23 Division 1, 46 days of voting for overseas military</p> <p>24 personnel, already the law both at the federal</p> <p>25 level and the state level. Certainly, we just did</p>
<p style="text-align: right;">22</p> <p>1 and review it in that context.</p> <p>2               And then the other thing I would say</p> <p>3 is that the Ohio Supreme Court not only looked at</p> <p>4 the purpose; which, the purpose in the Ohio Liberty</p> <p>5 Council case was specifically in the amendment</p> <p>6 itself. And that does not exist here. The</p> <p>7 amendment itself does not have a purpose to it. So</p> <p>8 that's why we looked at the title to come up with</p> <p>9 what the purpose, which is most aligned with the</p> <p>10 purpose, which is secure and fair elections.</p> <p>11               REPRESENTATIVE HICKS-HUDSON: Just</p> <p>12 one last question if I may.</p> <p>13               SECRETARY LaROSE: Go ahead.</p> <p>14               REPRESENTATIVE HICKS-HUDSON: Thank</p> <p>15 you.</p> <p>16               When we look at this particular</p> <p>17 proposal compared to what was presented in 2014,</p> <p>18 which was I think much more, had many more</p> <p>19 different sections to it, and the Ballot Board</p> <p>20 determined that that was a -- that there was one</p> <p>21 single subject, very similar to what we're looking</p> <p>22 at today, how do you reconcile your position today</p> <p>23 with what the Ballot Board has already done based</p> <p>24 upon prior language that has been presented to us?</p> <p>25               MS. SFERRA: I don't have that</p>	<p style="text-align: right;">24</p> <p>1 a piece of legislation two years ago here to extend</p> <p>2 from 45 to 46 days, the number of days for early --</p> <p>3 for overseas military civilians and military</p> <p>4 members to cast their ballots. So that's already</p> <p>5 law, and I think relatively uncontroversial. I</p> <p>6 don't know if anybody would ever have a problem</p> <p>7 with that.</p> <p>8               The next one, the right of</p> <p>9 individuals with disabilities to have full and</p> <p>10 equal access to register to vote and to vote.</p> <p>11 Again, a well understood topic and something that I</p> <p>12 think that really everybody can get behind and the</p> <p>13 idea that people with disabilities should be able</p> <p>14 to cast their ballots just like everyone else can.</p> <p>15               And then the next one would be this</p> <p>16 unnumbered portion that says, A representative</p> <p>17 sample of statewide elections. Just last year or</p> <p>18 just -- yeah, just last year, the General Assembly</p> <p>19 passed in Senate Bill 52 a requirement that that's</p> <p>20 done for every election, so that's contained</p> <p>21 already in the Ohio Revised Code. And I can tell</p> <p>22 you that as long as I'm in the office I'm in, we're</p> <p>23 going to continue to do postelection audits for</p> <p>24 every -- every election, because I think it's the</p> <p>25 right thing to do.</p>

<p style="text-align: right;">25</p> <p>1 And then really with the early</p> <p>2 voting days and hours section, which is in</p> <p>3 Section 3, Division 3, that basically lays out what</p> <p>4 currently is already the practice for days and</p> <p>5 hours.</p> <p>6 And so really it seems like there's</p> <p>7 three and a half components of this that are</p> <p>8 already functional, that are just simply taking</p> <p>9 something that's basically already contained in the</p> <p>10 Ohio Revised Code and putting it into the</p> <p>11 Constitution, and then pairing that with some</p> <p>12 things that may be laudable or that may be con- --</p> <p>13 that may be perhaps something that people want to</p> <p>14 have more discussions about and some people may</p> <p>15 consider controversial.</p> <p>16 So is that the way that you read</p> <p>17 these, as well, that these three, Division 1,</p> <p>18 Division 3, Division 5, and then the -- and then</p> <p>19 that unnumbered section about, about audits is</p> <p>20 basically already in the Ohio Revised Code?</p> <p>21 MS. SFERRA: Well, some of the</p> <p>22 provisions, as you've mentioned, are close to or in</p> <p>23 the Ohio Revised Code, that is correct. That</p> <p>24 doesn't necessarily mean they're not separate and</p> <p>25 distinct and that they shouldn't be voted on</p>	<p style="text-align: right;">27</p> <p>1 Republican Party? That's the first question.</p> <p>2 MS. SFERRA: I have not been</p> <p>3 approached by those groups. That does not mean</p> <p>4 that they do not exist.</p> <p>5 REPRESENTATIVE HICKS-HUDSON: But do</p> <p>6 you know of any other than -- you're saying that</p> <p>7 you've not been approached. But do you just know</p> <p>8 in general? Because as an attorney, you know, you</p> <p>9 only can speak for your client. But do you know in</p> <p>10 terms of your research or looking if there's others</p> <p>11 who agree with your position that this is not a</p> <p>12 single subject matter?</p> <p>13 MS. SFERRA: Well, if you look at</p> <p>14 the case law from some other states --</p> <p>15 REPRESENTATIVE HICKS-HUDSON: I'm</p> <p>16 talking about this particular -- I'm sorry.</p> <p>17 SECRETARY LaROSE: Go ahead and ask</p> <p>18 your question, Representative, if you would, and</p> <p>19 then let her respond.</p> <p>20 REPRESENTATIVE HICKS-HUDSON: Okay,</p> <p>21 yes.</p> <p>22 SECRETARY LaROSE: Are you done</p> <p>23 asking your questions?</p> <p>24 REPRESENTATIVE HICKS-HUDSON: Well,</p> <p>25 she's not responding to the question.</p>
<p style="text-align: right;">26</p> <p>1 separately by the electors. The electors should</p> <p>2 have the opportunity to support those provisions</p> <p>3 that they wish to support without having to support</p> <p>4 the entire amendment.</p> <p>5 SECRETARY LaROSE: Other questions</p> <p>6 for Ms. Sferra?</p> <p>7 Representative Hicks-Hudson, please,</p> <p>8 yeah, go ahead.</p> <p>9 REPRESENTATIVE HICKS-HUDSON: I'm</p> <p>10 sorry, I don't want to hog the questioning. But</p> <p>11 thank you, Mr. Chair.</p> <p>12 But just, I just wonder, though,</p> <p>13 because, and this is a question, but also a</p> <p>14 comment. And it's no disrespect to you as a</p> <p>15 secretary.</p> <p>16 But part of the reason I think that</p> <p>17 we're here is because that we have seen across the</p> <p>18 country that there have been some secretaries of</p> <p>19 state who have not been impartial and have used</p> <p>20 their office to do one thing or the other, and so</p> <p>21 for citizens to decide that this is an important</p> <p>22 measure to bring for all citizens to vote on it.</p> <p>23 So my question to you is, number</p> <p>24 one, are there any other groups that have, that</p> <p>25 support your position other than the Ohio</p>	<p style="text-align: right;">28</p> <p>1 The question is, as it relates to</p> <p>2 this particular ballot initiative, has there been</p> <p>3 any other groups that you know of, not that have</p> <p>4 contacted you, not that you represent, that you</p> <p>5 know of that hold your position? And it's not</p> <p>6 court case law; it is current information that's</p> <p>7 happening today as it relates to this particular</p> <p>8 issue.</p> <p>9 SECRETARY LaROSE: Do you have a</p> <p>10 further response, Ms. Sferra, or does your first</p> <p>11 answer stand?</p> <p>12 MS. SFERRA: I have not been</p> <p>13 approached by them. I can't speak to people that I</p> <p>14 have not been approached to represent.</p> <p>15 SECRETARY LaROSE: Okay. Any other</p> <p>16 questions?</p> <p>17 Mr. Parikh.</p> <p>18 MR. PARIKH: Are you aware of any</p> <p>19 other time that the Ballot Board has divided an</p> <p>20 issue simply because of the title?</p> <p>21 MS. SFERRA: I am not aware that the</p> <p>22 Ballot Board has done that simply because of the</p> <p>23 title, no.</p> <p>24 MR. PARIKH: Followups?</p> <p>25 SECRETARY LaROSE: Yeah. Please go</p>

1 ahead.

2 MS. SFERRA: Again, that doesn't  
3 mean it doesn't exist. I'm not aware of that.

4 MR. PARIKH: Sure. I'm not aware of  
5 any, either. That's why I wanted to see if you had  
6 any other information on that.

7 One of the things that Mr. McTigue  
8 brought up was that in the Ohio Liberty Council  
9 versus Brunner case, one of the standards that the  
10 court looked at was what is accepted as a single  
11 subject under the legislature, and when the  
12 legislature is putting forth legislation, what is  
13 considered to be a single subject.

14 Many election law bills include a  
15 variety of subject matters underneath them  
16 potentially, if we assume your standard. So  
17 automatic voter registration, military overseas  
18 voting, early vote; and this is just me going off  
19 the top of my head; have all been included in a  
20 bill that has gone through. I think it was Senate  
21 Bill 186 a couple years ago or maybe this year, I'm  
22 not really sure. That has never been overturned by  
23 the Supreme Court as violating single subject. Are  
24 you aware of that?

25 MS. SFERRA: So when you talk about

1 single subject, there's -- there are a couple  
2 different things. So there's the single-subject  
3 rule that applies to the General Assembly enacting  
4 laws.

5 MR. PARIKH: Right.

6 MS. SFERRA: Okay. That is separate  
7 from the rule that applies to initiated  
8 constitutional amendments by the General Assembly.  
9 So I'm not sure which of the two you are referring  
10 to. One is under Article XVI, Section 1, and  
11 that's the initiated constitutional amendments;  
12 which is different, --

13 MR. PARIKH: Right.

14 MS. SFERRA: -- as you know,  
15 different than the General Assembly single-subject  
16 rule. So I'm not certain which one you're  
17 referring to.

18 MR. PARIKH: Okay. Under either, it  
19 seems like the argument is that the definition of  
20 the subject here is different than a citizen  
21 casting their right to vote.

22 So I guess my question is, again  
23 looking at the language, if it's every citizen who  
24 is or is eligible to become an Ohio elector and how  
25 they exercise their right to vote, you are arguing

1 that these are potentially up to five or six ways  
2 in which that is not one subject?

3 MS. SFERRA: That they're  
4 independent, that's correct. I mean, the voting  
5 hours and times to vote for in-person early voting  
6 has nothing to do with registering to vote as a  
7 disabled person, for instance. And so they're  
8 separate, distinct and independent. And as a -- as  
9 a voter, you should have the opportunity to be  
10 fully informed and to know exactly what it is  
11 you're voting for without having to take other  
12 things as part of that, in order to vote for one  
13 thing that you get the other piece of it, as well.

14 MR. PARIKH: But in order to vote,  
15 you have to be registered to vote. Correct?

16 MS. SFERRA: Under current law,  
17 correct.

18 MR. PARIKH: Okay. So you have to  
19 be registered to vote to vote. I'm personally a  
20 member of the Army Reserve. So if I am deployed  
21 two days before Election Day, well, let's say, make  
22 it 45 days before Election Day; my UOCAVA rights  
23 are implicated. And if I happen to have a service-  
24 connected disability, then I would potentially be a  
25 disabled voter. And you're telling me as a member

1 of this board that I won't find that those aren't  
2 incidental or reasonably necessary to effectuate  
3 the purpose of me voting?

4 MS. SFERRA: Not all of them  
5 necessarily. I mean, there's other aspects in  
6 this, as well. I mean, the three that you just  
7 mentioned have to do with your specific  
8 registration. They don't have to do necessarily  
9 with all electors' registration, correct? All  
10 electors aren't necessarily in the military. All  
11 electors aren't necessarily going to be disabled.  
12 So as you just described it to you, all of those  
13 things would have to do with your specific  
14 situation.

15 MR. PARIKH: But all electors have a  
16 right to vote?

17 MS. SFERRA: All electors who are  
18 qualified have a right to vote, correct.

19 MR. PARIKH: And to have that vote  
20 counted?

21 MS. SFERRA: Unless there's some  
22 provision that applies where it doesn't count. If  
23 it's a provisional ballot, I mean, I can't --  
24 there's --

25 MR. PARIKH: Right. Yeah.

<p style="text-align: right;">33</p> <p>1 But to ensure the accuracy of that</p> <p>2 vote?</p> <p>3 MS. SFERRA: Say that again. I'm</p> <p>4 sorry.</p> <p>5 MR. PARI KH: To ensure the accuracy</p> <p>6 of that vote?</p> <p>7 MS. SFERRA: Is your question, does</p> <p>8 that exist to ensure the accuracy of the vote, the</p> <p>9 registration?</p> <p>10 MR. PARI KH: I'm saying that the</p> <p>11 concept of the accuracy of the vote that I'm</p> <p>12 casting is rolled into my right to vote. Do you</p> <p>13 think that that is or is not rolled into my right</p> <p>14 to vote?</p> <p>15 MS. SFERRA: I'm really not certain</p> <p>16 that I understand the question, to be honest with</p> <p>17 you. I think that, you know, your vote cannot</p> <p>18 count unless it meets the various criteria for it</p> <p>19 to be counted. And then if all the votes are</p> <p>20 counted accurately, you know, that's what the</p> <p>21 result will be.</p> <p>22 MR. PARI KH: Okay. Thank you.</p> <p>23 SECRETARY LaROSE: President Obhof.</p> <p>24 SENATOR OBHOF: Thank you,</p> <p>25 Mr. Chairman.</p>	<p style="text-align: right;">35</p> <p>1 divide it simply because of the title? My</p> <p>2 recollection is that you offered us several reasons</p> <p>3 over the course of ten minutes or so to explain why</p> <p>4 you think they should be separated out. Is that</p> <p>5 correct?</p> <p>6 MS. SFERRA: That is correct. I</p> <p>7 mean, I started with the title in and of itself</p> <p>8 shows that there's more than one subject being</p> <p>9 addressed. But yes, there were multiple reasons</p> <p>10 beyond that.</p> <p>11 SENATOR OBHOF: Okay. And early on</p> <p>12 in your testimony, you read some sentences from</p> <p>13 paragraph 42 of the Liberty Council versus Brunner</p> <p>14 case. And in particular, the sentence following</p> <p>15 the one that we have been discussing primarily,</p> <p>16 could you reread that again just so we understand</p> <p>17 exactly what the standard is that the Ohio Supreme</p> <p>18 Court's applying here?</p> <p>19 MS. SFERRA: Certainly.</p> <p>20 The paragraph 42 states, Thus, when</p> <p>21 an amendment to the Constitution relates to a</p> <p>22 single purpose or object and all else contained</p> <p>23 therein is incidental and reasonably necessary to</p> <p>24 effectuate the purpose of the amendment, such</p> <p>25 amendment is not violative of the provisions of</p>
<p style="text-align: right;">34</p> <p>1 I want to first of all before I get</p> <p>2 to my questions, I want to say to the extent that</p> <p>3 there is some linkage or some comparison between</p> <p>4 single-subject rule applicable here versus single-</p> <p>5 subject rules applicable to legislation, I would</p> <p>6 point out to the people present today that the</p> <p>7 legislature has lost a number of lawsuits related</p> <p>8 to single-subject rule over the last five to</p> <p>9 ten years. So I would say that to some degree, the</p> <p>10 court has tried to restrain or various courts</p> <p>11 across the state have tried to restrain logrolling</p> <p>12 to the extent that they thought it was necessary.</p> <p>13 And so if we're trying to rely on</p> <p>14 the comparison that, hey, the legislature cobbles</p> <p>15 together a lot of different things that are</p> <p>16 sometimes unrelated, I would say that recent</p> <p>17 history suggests the legislature shouldn't be doing</p> <p>18 that, and does less of it now than they used to,</p> <p>19 and that perhaps that's true of this board, as</p> <p>20 well.</p> <p>21 However, I guess my -- my two</p> <p>22 questions for you, first of all, you were asked</p> <p>23 recently about any examples of this board dividing</p> <p>24 something simply because of the title. You're not</p> <p>25 asking us to do that, right, you're not saying</p>	<p style="text-align: right;">36</p> <p>1 Section 1, Article XVI of the Ohio Constitution.</p> <p>2 And that paragraph 49, which I did</p> <p>3 not read from before, but I think goes to this, as</p> <p>4 well, in paragraph 49, the court determined that</p> <p>5 some sections of that proposal in Liberty Council</p> <p>6 had no independent meaning separate from the</p> <p>7 remainder of the amendment.</p> <p>8 Here again, each provision has</p> <p>9 separate and independent meaning and does not need</p> <p>10 to rely on any other provision in order to be</p> <p>11 meaningful to an elector.</p> <p>12 SENATOR OBHOF: Thank you.</p> <p>13 SECRETARY LaROSE: Further questions</p> <p>14 for Ms. Sferra?</p> <p>15 REPRESENTATIVE HICKS-HUDSON: Yes,</p> <p>16 thank you, if I'm --</p> <p>17 SECRETARY LaROSE: Go ahead,</p> <p>18 Representative.</p> <p>19 REPRESENTATIVE HICKS-HUDSON: Thank</p> <p>20 you, Mr. Chair.</p> <p>21 I'm still puzzled, because you're</p> <p>22 saying that these sections are not incidental to a</p> <p>23 person's ability to cast their ballot or to be an</p> <p>24 eligible voter or to be able to register to vote,</p> <p>25 so you see these as all separate and distinct for a</p>

<p style="text-align: right;">37</p> <p>1 citizen to be able to cast their ballot?</p> <p>2 MS. SFERRA: Correct.</p> <p>3 REPRESENTATIVE HICKS-HUDSON: And</p> <p>4 how -- how -- so your proposal would be that these</p> <p>5 be separated?</p> <p>6 MS. SFERRA: That's correct.</p> <p>7 REPRESENTATIVE HICKS-HUDSON: And</p> <p>8 you also keep saying that it would give -- because</p> <p>9 they're all connected, that a voter would not be</p> <p>10 able to choose the ones that he or she would want</p> <p>11 to vote in favor of or vote against. Correct?</p> <p>12 MS. SFERRA: Correct.</p> <p>13 REPRESENTATIVE HICKS-HUDSON: So are</p> <p>14 we saying that we don't trust that citizens are</p> <p>15 able to make the decision when they look at ballot</p> <p>16 language that currently exists? I use for example,</p> <p>17 there's a levy in my hometown that has three</p> <p>18 different parts of it. And so it was put on, it's</p> <p>19 put on the ballot with the hope that most of the</p> <p>20 citizens will like enough of it to vote in favor of</p> <p>21 it. So there's a remedy that citizens have, just</p> <p>22 as the citizens had to put this in front of us to</p> <p>23 make a decision to put it on the ballot.</p> <p>24 So actually, you're asking us to</p> <p>25 take away the citizens' right to vote on something</p>	<p style="text-align: right;">39</p> <p>1 part of the provision.</p> <p>2 This has nothing to do with voter</p> <p>3 trust. It does have to do with avoiding confusion,</p> <p>4 promoting informed decision-making, and preventing</p> <p>5 logrolling. And those are three things that</p> <p>6 multiple courts have looked at when they've looked</p> <p>7 at this specific provision in the Ohio Revised</p> <p>8 Code. It came up in the Sixth Circuit decision</p> <p>9 that challenged the Supreme Court term limits. And</p> <p>10 it's come up in other cases, as well.</p> <p>11 So those are things that are looked</p> <p>12 at. That's what I'm proposing to you today. It's</p> <p>13 not about voter trust. It's about what your duty</p> <p>14 is as stated in the Ohio Revised Code.</p> <p>15 SECRETARY LaROSE: I would add</p> <p>16 something, and feel free to respond to this.</p> <p>17 If this is about trusting the</p> <p>18 voters, which I think obviously, at least I can</p> <p>19 speak for myself, I do, and I think that the voters</p> <p>20 in Ohio get it right, that we trust them to</p> <p>21 consider separate ideas as separate ideas, not all</p> <p>22 rolled into one package. And so that if this were</p> <p>23 to be split into four or six different proposals,</p> <p>24 if they're all laudable, then the voters of Ohio</p> <p>25 will overwhelmingly approve them. If two are</p>
<p style="text-align: right;">38</p> <p>1 that they deem important. And so that's, to me</p> <p>2 that's what the basis, the essence of your</p> <p>3 argument. Because you are not dealing with, really</p> <p>4 to me you're saying it's a single subject when in</p> <p>5 fact we're dealing with the merits. One of your</p> <p>6 arguments is actually the merits of the ballot</p> <p>7 language itself. And I don't believe that that is</p> <p>8 what we're supposed to be doing.</p> <p>9 So maybe it's not a question to you</p> <p>10 as much as it is for us to be thinking about as</p> <p>11 we -- as we continue on with that.</p> <p>12 SECRETARY LaROSE: Well, thank you,</p> <p>13 Representative. And I think you did pose a couple</p> <p>14 things that she may want to respond to.</p> <p>15 MS. SFERRA: Well, I'll try to.</p> <p>16 SECRETARY LaROSE: Ms. Sferra?</p> <p>17 MS. SFERRA: First of all, I'm not</p> <p>18 intending to address the merits. I think maybe if</p> <p>19 I had to say some things to give examples, perhaps</p> <p>20 that's what was understood.</p> <p>21 But I don't know anything about your</p> <p>22 local ballot process. What I do know is the ballot</p> <p>23 process here that's in the Ohio Revised Code</p> <p>24 requires this body to make this determination and</p> <p>25 to make it now, not to make it later, which may be</p>	<p style="text-align: right;">40</p> <p>1 laudable and three are not or what have you, then</p> <p>2 they'll approve the ones that they like. To me if</p> <p>3 it's a question of trusting voters, then we ought</p> <p>4 to trust voters to consider each one separately on</p> <p>5 its merits and not have to roll them into some</p> <p>6 package.</p> <p>7 But anyway, I don't know if you care</p> <p>8 to respond to that, Ms. Sferra.</p> <p>9 MS. SFERRA: I would agree with</p> <p>10 that. I mean, you know, as I indicated, this is</p> <p>11 not really about voter trust from the standpoint of</p> <p>12 why I'm here. But certainly, if these were broken</p> <p>13 up into individual discrete amendments, you could</p> <p>14 trust the voter to do the right thing there. You</p> <p>15 wouldn't need to have them all put together where</p> <p>16 they'd have to be perhaps voting for some things</p> <p>17 they don't want in order to get something they do</p> <p>18 want.</p> <p>19 SECRETARY LaROSE: Further questions</p> <p>20 for the witness?</p> <p>21 All right. Seeing no further</p> <p>22 questions from the witness, thank you so much,</p> <p>23 Ms. Sferra.</p> <p>24 MS. SFERRA: Thank you very much.</p> <p>25 SECRETARY LaROSE: At this time, is</p>

<p style="text-align: right;">41</p> <p>1 there anyone else who is here to offer testimony on</p> <p>2 the so-called Secure and Fair Elections Amendment</p> <p>3 that's in front of us right now?</p> <p>4 All right. Seeing no one else here</p> <p>5 to offer testimony and in light of the fact that</p> <p>6 we've heard a lot of interesting things over the</p> <p>7 last several minutes, I think I'm going to take</p> <p>8 another recess for a period of about five minutes</p> <p>9 so that, I know I want to confer with my team, and</p> <p>10 I know that the other members may wish to do so, as</p> <p>11 well. So at this time, we're in recess for a</p> <p>12 period of just about five minutes.</p> <p>13 (Brief recess taken.)</p> <p>14 SECRETARY LaROSE: Well, now, good</p> <p>15 afternoon, everyone. The Ballot Board will come</p> <p>16 back to order. Appreciate your patience as I was</p> <p>17 working with my team back there.</p> <p>18 Based on what we had heard to, in</p> <p>19 the best of our opinion to come up with the proper</p> <p>20 divisions of this, which in my opinion is clearly</p> <p>21 different subject matters; and I passed this out</p> <p>22 just now to the members of the committee. We have</p> <p>23 a photocopy of that, that will be available for the</p> <p>24 members of the public, as well.</p> <p>25 And what I was just explaining to my</p>	<p style="text-align: right;">43</p> <p>1 correspond to the color-coded copies which I passed</p> <p>2 to my colleagues.</p> <p>3 Division 1 shall contain the</p> <p>4 petitioners' proposed Subsections 1, 3, as well as</p> <p>5 the first sentence of the unnumbered last</p> <p>6 paragraph, and the third and fourth sentences of</p> <p>7 the unnumbered last paragraph. These are the</p> <p>8 individual rights pertaining to casting a ballot,</p> <p>9 which are being proposed by the petitioners, and</p> <p>10 those are annotated in yellow on the members'</p> <p>11 copies.</p> <p>12 The second division shall be, shall</p> <p>13 contain the petitioners' proposed changes to</p> <p>14 current text of Article V, Section 1; petitioners'</p> <p>15 proposed Sections 2 and 4; and the second sentence</p> <p>16 of the unnumbered last paragraph. These are the</p> <p>17 individual rights related to registration and</p> <p>18 becoming -- registration related to becoming an</p> <p>19 elector.</p> <p>20 The third division shall contain the</p> <p>21 petitioners' proposed Subsection 5. This is</p> <p>22 annotated in green. And this is a right of</p> <p>23 citizens with disabilities to register to vote, as</p> <p>24 well as the right to vote for persons with</p> <p>25 disabilities.</p>
<p style="text-align: right;">42</p> <p>1 colleagues is that we used a color-coding, which</p> <p>2 was the easiest way I could think of with the</p> <p>3 materials we had back there, to lay out very</p> <p>4 clearly that these are four separate matters.</p> <p>5 Those four separate matters are elections</p> <p>6 administration, registration, persons with</p> <p>7 disabilities, and post-election audits, and to</p> <p>8 clearly lay out how that works.</p> <p>9 And so at this time, I'm going to</p> <p>10 make a motion and then offer an opportunity for</p> <p>11 discussion.</p> <p>12 So first of all, I move that the</p> <p>13 board find that the Secure and Fair Elections</p> <p>14 Amendment contains four separate proposals: a</p> <p>15 constitutional right to requirements regarding</p> <p>16 casting ballots; a constitutional right regarding</p> <p>17 the manner in which one becomes a registered voter</p> <p>18 and when any registration is effective; third, a</p> <p>19 constitutional right for citizens with disabilities</p> <p>20 to register to vote and vote; and four, post-</p> <p>21 election audits accordingly as required by Ohio</p> <p>22 Revised Code 3505.062 and 3519.01.</p> <p>23 I move that the board shall separate</p> <p>24 this petition into four parts. The petition shall</p> <p>25 be separated as follows. And again, these</p>	<p style="text-align: right;">44</p> <p>1 The final petition, the final</p> <p>2 division of this shall be to contain the</p> <p>3 petitioners' unnumbered sentence regarding post-</p> <p>4 election audits. Please note this is the only one</p> <p>5 that does not confer an individual right. This is</p> <p>6 annotated in pink. And this pertains to the</p> <p>7 requirement that a post-election audit be conducted</p> <p>8 after each election, each statewide election.</p> <p>9 So that is my motion. Is there a</p> <p>10 second?</p> <p>11 SENATOR OBHOF: Second.</p> <p>12 SECRETARY LaROSE: Seconded by</p> <p>13 President Obhof.</p> <p>14 At this time, any discussion</p> <p>15 regarding my motion?</p> <p>16 Representative Hicks-Hudson.</p> <p>17 REPRESENTATIVE HICKS-HUDSON: Thank</p> <p>18 you. Thank you, Mr. Chair.</p> <p>19 Unfortunately, I haven't had enough</p> <p>20 time to really review these in reference to the</p> <p>21 sections that you were referencing to. But when I</p> <p>22 look at this in relationship to the language that</p> <p>23 we've been talking about is that it should be, each</p> <p>24 of the subjects bear some reasonable relationship</p> <p>25 to a single general object or purpose.</p>



<p style="text-align: right;">45</p> <p>1 And while you're delineating the,  2 these different rights, I see this as one, which is  3 very simply the right of an eligible voter to be  4 able to vote in an election and the method by which  5 that person is able to vote. I don't see this as  6 specific separate rights to individual, but these  7 are rights to all electorates, and that the  8 separation comes in by the specifics of the  9 individual in exercising those rights. So I  10 disagree, and I believe that we should continue to  11 look at this as a single subject, ballot language.  12 And I would have more comfort if you  13 were to say that, for example, we're looking at  14 something that's one area of the code of election  15 law, such as campaign financing, or we're going  16 into another section of the code that deals with  17 redistricting, or maybe we're talking about early  18 voting as an oversight; which is partly here; and  19 then maybe shifting oversight of statewide  20 elections from the secretary of state to a  21 nine-member panel, which is what was done under  22 your predecessor, Secretary of State Blackwell, in  23 2005 for the Reform Ohio Now; which makes sense  24 because you're dealing with separate sections of  25 the election law, you know, such as campaign</p>	<p style="text-align: right;">47</p> <p>1 with you insomuch as voting is something that we  2 all deeply care about, something that all of us  3 would fight to protect and many of us have fought  4 to protect, and this is a right that we hold sacred  5 as Americans. It's also a very big subject matter  6 in law. There are reams and reams of paper  7 dedicated to laying out how we conduct fair  8 elections, how we run our registration process, how  9 we conduct post-election audits.  10 And so to take a very large idea  11 like every eligible citizen should be able to cast  12 a ballot and do so in a convenient and efficient  13 way, that's something that we all can get behind.  14 But to say that that constitutes one single subject  15 or purpose, I think is a stretch, again given that  16 there are -- there's great specificity to each of  17 these sort of different proposals that's contained  18 herein.  19 And I guess I would say that, again,  20 if these are good ideas, and I can tell you that  21 several of these I'm personally very much in favor  22 of; although we're not here to debate the merits  23 today; that the voters of Ohio will approve all  24 four of these that I would propose to be on the  25 ballot. And they would at least have the</p>
<p style="text-align: right;">46</p> <p>1 finance, redistricting, early vote.  2 But here we're talking about  3 allowing an individual voter, an eligible voter the  4 ability to vote. And I'm not seeing how your --  5 your delineation. I will give you -- I will give  6 you the one as relates to about the audit. I agree  7 with you there. But as far as these others, I  8 think that those should remain as a single subject,  9 because they all relate to an individual voter.  10 So those are my comments. Thank  11 you.  12 SECRETARY LaROSE: Thank you,  13 Representative.  14 Regarding your first point, I  15 recognize that I just went back and spent some time  16 highlighting this to try to respond to the public  17 testimony that we had heard and did a, you know,  18 very careful job of doing that. But you have just  19 seen this. So if you, if you're asking for more  20 time, I'd be happy to once again recess the  21 committee. So please let me know if that's what  22 you want. If you need more time, I'd recess the  23 committee so you'd have time to consider the  24 proposal or the motion that I've made.  25 Regarding your second point, I agree</p>	<p style="text-align: right;">48</p> <p>1 opportunity to consider each one on its merits, and  2 that the voters of Ohio may then go ahead and  3 approve all four of them if they think that these  4 changes to the way we cast ballots are laudable, if  5 they think that these changes to how we do voter  6 registration are laudable, if they think that these  7 changes pertaining to the right of citizens with  8 disabilities is laudable, and if they think that  9 this change as it relates to the requirement of  10 post-election audits being in the Constitution is  11 laudable; if they like those things, then the  12 voters of Ohio will approve all four. But I think  13 that they ought to have the opportunity to consider  14 each on their merits.  15 And so that's my response to your  16 questions, Representative.  17 President Obhof, did you have a  18 comment, as well?  19 REPRESENTATIVE HICKS-HUDSON: If  20 I -- if I may just respond, --  21 SECRETARY LaROSE: Please. Yeah.  22 REPRESENTATIVE HICKS-HUDSON: --  23 please.  24 As a former board of elections  25 director, I'm very familiar with, with the process</p>

<p style="text-align: right;">49</p> <p>1 of electing and all the different aspects of  2 election law. And I believe very fundamentally  3 that citizens when given proper information, which  4 would be the responsibility of the -- of the people  5 who put this on the ballot to educate the voter for  6 them to vote one way or the other.  7 We are, I believe, substituting our  8 judgment for them in that we are truly discussing  9 the merits of these by the separation. So  10 therefore, I just wanted to go on record and say  11 that I respectfully disagree with what we're doing  12 today, and I will be voting no against your changes  13 that you're proposing. Because I believe very  14 strongly that we, that -- And I believe that the  15 courts will probably uphold this, my position when,  16 if and when this party takes it to the Supreme  17 Court for a review. Thank you.  18 SECRETARY LaROSE: Appreciate your  19 prediction and thank you for stating your case.  20 President Obhof.  21 SENATOR OBHOF: Thank you,  22 Mr. Chairman.  23 I don't want to rehash everything  24 that you've previously said, but I do want to point  25 out that I think it is consistent with frankly the</p>	<p style="text-align: right;">51</p> <p>1 just like voting and the right to vote is a big  2 idea, something that we all support, and then the  3 way that that actually is administered contains  4 many subcomponent parts.  5 Mr. Parikh?  6 MR. PARIKH: Thank you,  7 Mr. Secretary.  8 I'm glad you brought up the criminal  9 law issue. So I went back and looked at, in 2017,  10 there was a constitutional amendment to put forth  11 Marsy's Law, which was billed as the Victims' Bill  12 of Rights. There were 12 separate ideas underneath  13 Marsy's Law, and it was put forward as one  14 amendment.  15 The right to be informed in writing  16 of Marsy's Law as a victim of a crime; the right to  17 assert these rights for yourself through a  18 representative or by asking a prosecuting attorney,  19 if the relief is denied, you may appeal to your  20 local district court of appeals; 3, the right to be  21 treated with fairness and respect for your safety,  22 dignity, and privacy throughout the criminal  23 justice process; 4, the right to reasonable and  24 timely notice of all public proceedings and the  25 right to be present at those proceedings; 5, the</p>
<p style="text-align: right;">50</p> <p>1 position I took earlier today on a different,  2 different matter.  3 But also with the language that we  4 see in OLC versus Brunner with the standard that's  5 typically applied, if we're looking for different  6 objects or different purposes, I believe that the  7 color-coding system that you've set out here  8 separates things according to, first, casting a  9 ballot; second, registration and related issues;  10 third, protecting the rights of persons with  11 disabilities and ensuring full access; and then  12 fourth, for audits. I believe each of those is a  13 different purpose, each of those relates to  14 different policies to effectuate those purposes,  15 and I think that what's been proposed here is, is  16 appropriate.  17 SECRETARY LaROSE: Thank you,  18 President Obhof.  19 I would refer back to Ms. Sferra's  20 testimony when she made I think a cogent point to  21 say that criminal law is a subject, but we wouldn't  22 necessarily say that anything related to criminal  23 law should be in one proposed constitutional  24 amendment. I mean, criminal law is a big idea that  25 includes a lot of, a lot of component parts to it;</p>	<p style="text-align: right;">52</p> <p>1 right to proceed -- to speak in public proceedings  2 involving the accused's release, plea, sentencing,  3 disposition, or parole, and any other hearing that  4 involves your rights; 6, the right to confer with  5 the prosecutor upon request; 7, the right to  6 proceedings free from unreasonable delay and prompt  7 conclusion of the case; 8, the right to refuse an  8 interview, deposition, or other discovery request  9 by an accused, except as otherwise set forth in  10 Ohio's Constitution; 9, the right to full and  11 timely restitution from the offender for harm  12 caused; 10, the right to reasonable protection from  13 the accused or any person acting on behalf of the  14 accused; 11, the right to request a victim's  15 representative; and 12, the right of notice of  16 escape or release of the offender upon request.  17 As one constitutional amendment,  18 this standard is incredibly broad. The standard  19 for single subject I believe that is encompassed in  20 this amendment that has come before us is the  21 exercise of the right to vote.  22 In order to vote in Ohio, you need  23 to be 18 years old. You have to register to vote.  24 You have to vote however you choose to do that, be  25 it through early vote, absentee vote, as a UOCAVA</p>

<p style="text-align: center;">53</p> <p>1 voter, as a voter with a disability, or to show up  2 on Election Day unimpeded and have that vote  3 counted.</p> <p>4           The fact that some of these  5 provisions may already be the law is wonderful, but  6 that is not the standard that we are here to  7 determine today. When we look at how this is  8 potentially going to be split apart, I have other  9 concerns.</p> <p>10           Paragraph 3, for example, refers to  11 the early vote period; but paragraph 4, which will  12 be separated from it, also refers to that, to the  13 early voting period. So breaking these two apart  14 could potentially break the connection between  15 those two sections and could cause confusion. I  16 would argue that those two at a bare minimum are  17 reasonably necessarily to effectuate each other.</p> <p>18           I think it's important that we look  19 at who has testified today and that the only  20 part- -- the only party that has testified opposed  21 to this, as opposed to this is Ms. Sferra, an  22 attorney on behalf of the Ohio Republican Party.</p> <p>23           Finally, I just want to read from,  24 we talked a lot about the standard in the Ohio  25 Liberty Council versus Brunner case. And I want to</p>	<p style="text-align: center;">55</p> <p>1 requirement applicable to the legislative right of  2 initiative.</p> <p>3           Paragraph 57, Based on the  4 foregoing, the Ballot Board has a clear legal duty  5 to liberally construe the right of initiative, and  6 as long as the citizen-initiated proposed amendment  7 bears some reasonable relationship to a single  8 general object or purpose, the board must certify  9 its approval of the amendment as written without  10 dividing it into multiple petitions.</p> <p>11           To break this apart breaks the  12 interrelatedness of each of these provisions of  13 this proposed amendment.</p> <p>14           And for all of those reasons, I will  15 be a no.</p> <p>16           SECRETARY LaROSE: Thank you,  17 Mr. Parikh.</p> <p>18           Regarding the one comment that you  19 made that the first division that we were making  20 severs something from the second division as it  21 relates to the early voting period, I'll point out  22 that even if one of those were to be successful and  23 the other one were to fail, the early voting period  24 that currently operates would continue to operate,  25 and this simply refers to the early voting period.</p>
<p style="text-align: center;">54</p> <p>1 read from paragraphs 42, 56, and 57.</p> <p>2           The applicable test for determining  3 compliance with the separate-vote requirement of  4 Section 1, Article XVI is that a proposal consists  5 of one amendment to the Constitution only so long  6 as each of its subjects bears some reasonable  7 relationship to a single general object or purpose.</p> <p>8           And skipping to, skipping forward  9 one sentence, Thus, where an amendment to the  10 Constitution relates to a single purpose or object  11 and all else contained therein is incidental and  12 reasonably necessary to effect the purpose of the  13 amendment, such amendment is not violative of the  14 provisions of Section 1, Article XVI. Courts have  15 generally taken a liberal view in interpreting what  16 such a general purpose or object may be.</p> <p>17           Skipping to paragraphs 56 and 57,  18 The power of initiative must be liberally  19 construed, and the General Assembly cannot diminish  20 that power. By imposing the separate-vote  21 requirement on citizen-initiated proposed  22 amendments, therefore, the General Assembly could  23 not diminish citizens' constitutional right of  24 initiative by construing that requirement more  25 strictly than the similar constitutional</p>	<p style="text-align: center;">56</p> <p>1 So there will be and there has been and there will  2 continue to be an early voting period regardless of  3 any of these passing or failing, and this refers  4 simply to that early voting period, which as you  5 know, currently we're in the midst of here in Ohio,  6 thankfully.</p> <p>7           Secondly, I guess perhaps we just  8 have a difference of opinion on whether this is a  9 single purpose or object. And again, laudable or  10 not, and I like a lot of the things that are in  11 here just as an unrelated matter, but laudable or  12 not, I don't see how I can in good -- in good  13 conscience call, you know, each of these a single  14 purpose and object just because they all pertain to  15 voting. That to me is a very broad, very broad  16 topic. But I appreciate your remarks nonetheless.</p> <p>17           Further comments, President Obhof?  18 SENATOR OBHOF: Thank you,  19 Mr. Chairman.</p> <p>20           And building on that, I would,  21 again, we've heard the language now over the course  22 of two different issues or two different proposals  23 consistently quoted from one sentence of  24 paragraph 42 of the Liberty Council case. But the  25 very next sentence says that these things are not</p>

<p style="text-align: right;">57</p> <p>1 violative of the provisions of Section 1,  2 Article XVI of the Constitution where an amendment  3 of the Constitution relates to a single purpose or  4 object and all else contained therein is incidental  5 and reasonably necessary to effectuate the purpose  6 of the amendment.</p> <p>7           And again, I do not believe that all  8 of these things are necessary to a specific one  9 specific purpose. As we've already discussed and  10 as laid out in your color-coding system here, we  11 have four different objects, four different  12 purposes, all of which may relate overall to the  13 broader topic of voting, but -- but which I do not  14 believe fall within the language that we are here  15 discussing. So again, I support separating these  16 out into the four potential issues.</p> <p>17           And I do want to just point out that  18 in a prior line of questioning or commenting, it  19 was mentioned that there was only one witness in  20 favor of breaking this up. Well, to the best of my  21 knowledge, there was also only one witness in favor  22 of keeping it together as one issue. So it's not  23 as if we've had 100 people from all walks of life  24 coming in and testifying about this, and it was 99  25 to 1. We heard from two very well educated, very</p>	<p style="text-align: right;">59</p> <p>1 position. And we're sitting here today with a --  2 with a short time frame of having this before us,  3 and I'm not -- and I'm not sure that that's not the  4 reason why we only have two speakers.</p> <p>5           And no disrespect to the speakers,  6 but to really have the true citizens, the ones who  7 are going to be affected by our decision being able  8 to come in and weigh in on this particular issue.</p> <p>9           You know, both of us representatives  10 and the Senate, we look very carefully to make sure  11 that when we enact laws that we give opportunities  12 for citizen input. And the citizens spoke in terms  13 of getting this petition thus far to this board.  14 And what we are doing by our vote if we vote in  15 favor of your proposal is that we are closing off  16 that voice in the manner in which they wanted to  17 present this initiative petition to the citizens of  18 the state of Ohio.</p> <p>19           And with that, I appreciate your  20 allowing me to complete my comments in rebuttal to  21 what was just said. Thank you.</p> <p>22           SECRETARY LaROSE: Thank you,  23 Representative. And point taken, and I appreciate  24 that regarding the notice.  25           I will say that obviously, the</p>
<p style="text-align: right;">58</p> <p>1 well spoken attorneys who each presented their --  2 their viewpoint. And for what it's worth, I agree  3 with the interpretation of the latter person that  4 we heard from.</p> <p>5           SECRETARY LaROSE: Further  6 discussion regarding my motion?</p> <p>7           REPRESENTATIVE HICKS-HUDSON: Yes,  8 please.</p> <p>9           SECRETARY LaROSE: Representative  10 Hicks-Hudson.</p> <p>11           REPRESENTATIVE HICKS-HUDSON: Thank  12 you, Mr. Chair.</p> <p>13           And while I believe that it is  14 important that we present a full record, as you  15 know, at the beginning of this meeting, I  16 questioned our notice process. And I appreciate,  17 Mr. Secretary, you know, your ability to try to  18 make this convenient for the members of the Ballot  19 Board.</p> <p>20           But in terms of pushing a notice out  21 quickly or not enough, that might be the reason why  22 we only have two witnesses, one on each side; as  23 opposed to others such as the NAACP or the ACLU or  24 others who are on either side of this issue being  25 able to come and to support or either -- either</p>	<p style="text-align: right;">60</p> <p>1 commission in front of us today is a very narrow  2 question of not the merits certainly but of whether  3 this is one individual purpose or object. And so  4 my guess is that if any of these various different  5 petitions are successful and garner enough  6 signatures, that they're back in front of us in a  7 few months. I'm sure that at the time that we're  8 considering the ballot language itself that we'll  9 hear from a variety of voices, and I look forward  10 to that, and that's how we do our best work when we  11 do get to hear from a variety of voices.</p> <p>12           But certainly, on the -- on the  13 narrow subject of whether this constitutes one  14 issue or whether this constitutes multiple issues,  15 I think that we've had a good and open discussion  16 today, and I appreciate everyone's -- everyone's  17 participation in that discussion.</p> <p>18           Further discussion on my motion that  19 this be divided into four separate petitions?</p> <p>20           Again, for review, my proposal, my  21 motion that has been seconded by President Obhof is  22 that the proposed amendment that's in front of us  23 would be split into four separate sections, as I've  24 passed out. One would pertain to casting a ballot,  25 that single purpose or object of casting a ballot.</p>

C E R T I F I C A T E

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THE STATE OF OHIO:  
                                SS:  
COUNTY OF FRANKLIN:

I, Sarah S. Collignon a Professional  
Reporter and Notary Public in and for the State of  
Ohio, do hereby certify that the foregoing is a  
true, correct, and complete written transcript of  
the proceedings in this matter;  
That the foregoing was taken by me  
stenographically and transcribed by me with  
computer-aided transcription;  
That the foregoing occurred at the  
aforementioned time and place;  
That I am not an attorney for or  
relative of either party and have no interest  
whatsoever in the event of this litigation.

IN WITNESS WHEREOF, I have hereunto set  
my hand and official seal of office at Columbus,  
Ohio, this 4th day of March, 2020.

/s/Sarah S. Collignon\_\_\_\_\_  
Notary Public, State of Ohio

My Commission Expires: January 9, 2025.

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## C E R T I F I C A T E

- - -

THE STATE OF OHIO:

SS:

COUNTY OF FRANKLIN:

I, Sarah S. Collignon a Professional Reporter and Notary Public in and for the State of Ohio, do hereby certify that the foregoing is a true, correct, and complete written transcript of the proceedings in this matter;

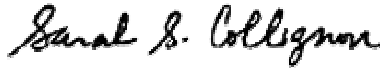
That the foregoing was taken by me stenographically and transcribed by me with computer-aided transcription;

That the foregoing occurred at the aforementioned time and place;

That I am not an attorney for or relative of either party and have no interest whatsoever in the event of this litigation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Columbus, Ohio, this 4th day of March, 2020.

/s/Sarah S. Collignon  
Notary Public, State of Ohio



My Commission Expires: January 9, 2025.

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## **Exhibit F**

Copy of the Proposed Ohio Voters Bill of Rights Amendment



# INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

## TITLE

The Ohio Voters Bill of Rights

## SUMMARY

The Amendment would enact the Ohio Voters Bill of Rights by amending current Section 1 of Article V of the Ohio Constitution with provisions to include that:

- The right of all Ohio citizens qualified under the Article to cast a ballot and have their votes counted is declared to be a fundamental right.
- A person may cast a ballot at an election as an elector if the person is a citizen of the United States, at least 18 years old, registered to vote by the deadline set by law, which may not be more than 30 days before the election, and a resident of the county where seeking to vote.
- The State shall maintain the broadest feasible and accessible means for persons to register and update their registration to vote, including through electronic means. A certificate of registration would be issued whenever a person registered or updated their registration to vote.
- Voting shall be by secret ballot. Every elector may vote on election day between 6:30 a.m. and 7:30 p.m. at a convenient designated polling location. More than one such location where an elector may vote may be designated by local election authorities.
- In lieu of voting on the day of an election, electors shall be permitted to vote in person or by mail during the early voting period, which shall begin 35 days before each election and end on the day before the election for early in person voting and the day of the election for voting by mail. During the early voting period, local election authorities must make ballots available for in person voting during their regular business hours at their office or another location in the county and at other times during the early voting period, which shall include no less than 12 hours across the two days of each of the final two weekends before the date of a general election, 10 hours on each weekday of the final two weeks before each general election, and 12 hours on the last day of voter registration for an election. Local election authorities shall have the discretion to expand the hours of early in person voting for an election and to designate multiple locations for early in person voting based on the identified needs of their counties, including making in person early voting convenient and easily accessible for working and non-working electors.
- The State must make applications to vote by mail generally available, including electronically. An elector may return a completed and signed application to the appropriate election authority by electronic or non-electronic means. A ballot returned by mail shall be timely if postmarked by election day and received by the appropriate election authority no later than 10 days after the election. An elector who applies for a vote by mail ballot may also choose to cast a provisional ballot on election day, but such ballot shall not be counted if the elector's vote by mail ballot is timely received by the appropriate election authority.





- An elector who chooses to cast a ballot in person during the early voting period or on election day, if required by law to verify his/her identity, may do so, with: the last 4 digits of his/her social security number, a current Ohio driver's license or license number, current U.S. Passport or passport number, current photo identification, utility bill, bank statement, government check, or paycheck, or any current form of identification issued to the person by the State, a political subdivision or instrumentality of the State, the federal government, a branch of the U.S. Military, or a public or private institution of higher education, or any other form of identification authorized by the State for voting identification purposes. If an elector is unable to provide any of these forms of identification at the time of voting, he/she shall be permitted to cast a provisional ballot after signing an affirmation under penalty of election falsification attesting to his/her identity, which shall be counted if the elector submits or causes to be submitted one of the authorized forms of identification to the appropriate election authority no later than 10 days after the election. Federal election law does not permit certain of these forms of ID to be used to verify a voter's identity in a federal election if the person registered by mail and has not previously voted in a federal election.
- If an elector casts a ballot using a method and at a time authorized under this Article, the ballot shall not be rejected for a reason attributable in whole or part to poll worker or election official error. Laws must be enacted to minimize the potential for such errors.
- If an elector marks his/her ballot in such a manner that it may not be properly recorded by tabulation equipment, all votes on such ballot for candidates and issues which the elector is entitled to vote upon shall be counted if local election authorities are able to determine the voter's intent.
- When an elector casts a provisional ballot in person in his/her county, but not in the correct precinct, the ballot shall be counted but only for candidates and issues that are on the ballot in the precinct where the elector resides.
- A person who is unable to cast a regular ballot at an election shall be permitted to cast a provisional ballot after signing an affirmation attesting under penalty of election falsification to his/her qualifications as an elector. The ballot shall be counted if the ballot is cast in the person's county of residence and his/her qualifications as an elector are verified. A provisional voter shall have up to 10 days following the election to submit or cause to be submitted to the appropriate election authority information necessary to establish his/her qualifications as an elector or to have his/her ballot counted. To facilitate the timely providing of such information, the identity of provisional voters at an election shall be publicly available.
- The State may institute additional reliable means of voting that become available through technological advancements.
- The General Assembly may pass laws expanding and facilitating the voting rights and opportunities guaranteed under this Article, but in no manner denying or limiting them. The State shall not impose any qualification, except as provided in this Article, nor impose a tax, charge or expense, as a condition to voting or registering or updating a registration to vote.
- Any person requesting or casting a ballot who, with the purpose to defraud, impersonates another person or votes more than once in an election, would be guilty of a felony.

The Amendment would repeal and replace the existing language of Section 1 as set forth in the full text attached to this petition. The existing language sets forth qualifications of an elector as being a citizen of the United States, resident of the state, county, township or ward such time as may be established by law and registered for 30 days before the election, and provides that any elector who fails to vote for 4 consecutive years ceases to be an elector unless he again registers to vote. However, this 4 year provision has been superseded by the National Voter Registration

Act of 1993 that provides a person may only be removed from the voter rolls under specific circumstances that include failing to vote at all in any 4 year election cycle that includes 2 federal elections, followed by specific action taken by the state to communicate with the voter.

#### COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Alicia Reece	2081 Seymour Ave. A	Cincinnati, Ohio 45237
John R. Smith	3900 Delphos Ave.	Dayton, Ohio 45402
Vernon Sykes	133 Furnace Run Dr.	Akron, Ohio 44307
Rev. Otis Moss, Jr.	87 Haskell Dr.	Bratenahl, Ohio 44108



## FULL TEXT OF AMENDMENT

Be it Resolved by the People of the State of Ohio that Article V of the Ohio Constitution is hereby amended to add the following to Section 1 as the Ohio Voters Bill of Rights and repeal the existing language of Section 1 shown below with strike throughs:

### Section 1 Ohio Voters Bill of Rights

- a. The right of all Ohio citizens qualified under this Article to cast a ballot and have their votes counted is declared to be a fundamental right in this State. A person may exercise this right as an elector in an election if he or she is a citizen of the United States, at least 18 years of age on the date of the election, registered to vote in this State on or before the deadline established by law, which shall be no more than 30 days before the date of the election, and a resident of the county in which he or she seeks to vote.
- b. The State shall maintain the broadest feasible and accessible means for citizens to register to vote and update their voter registration, including through electronic means. The State shall issue a certificate of registration to all persons registering to vote or updating their voter registration.
- c. Voting shall be by secret ballot. Every elector shall be permitted to obtain and cast a ballot in person on the date of each election between 6:30 a.m. and 7:30 p.m. at a convenient designated polling location. More than one location where an elector may vote on election day may be designated by local election authorities.
- d. In lieu of voting on the date of the election, every elector shall be permitted to obtain and cast a ballot in person or by mail during the early voting period preceding the election, which shall begin 35 days before the date of each election and end the day before the election for early in person voting and the day of the election for voting by mail. During the early voting period, local election authorities shall make ballots available for in person voting during regular business hours at their office or another location in the county and at other times during the early voting period, which shall include no less than 12 hours across the two days of each of the final two weekends before the date of a general election, 10 hours on each weekday of the final two weeks before each general election, and 12 hours on the last day of voter registration for an election. For early voting periods, local election authorities shall have the discretion to expand the hours of early in person voting and to designate multiple locations for early in person voting based on the identified needs of their counties, including making in person early voting convenient and easily accessible for working and non-working electors.
- e. The State shall make applications necessary to obtain vote by mail ballots generally available and easily accessible to voters statewide, including through electronic means. Electors may transmit such completed and signed applications to the appropriate



election authority through electronic or non-electronic means. A ballot returned by an elector by mail shall be considered timely if postmarked by the date of the election and received by the appropriate election authority no later than 10 days after the election. An elector who applies for a vote by mail ballot may also choose to cast a provisional ballot on election day, but such provisional ballot shall not be counted if the elector's vote by mail ballot is timely received by the appropriate election authority.

f. An elector who chooses to cast a ballot in person on the date of the election or in person during the early voting period, if required by law to verify his or her identity, may do so by furnishing any of the following at the time he or she requests a ballot: the last four digits of his or her social security number, his or her current Ohio driver's license or current Ohio driver's license number, his or her current United States passport or passport number, a current photo identification, utility bill, bank statement, government check, or paycheck, or any current form of identification issued to the person by the State, a political subdivision or instrumentality of the State, the federal government, a branch of the United States military, or a public or private institution of higher education, or any other form of identification that the State may authorize electors to use to verify their identity. If such person is unable to provide any of the above at the time he or she offers to vote, he or she shall be permitted to cast a provisional ballot upon signing an affirmation attesting to his or her identity under penalty of election falsification. In such case, the elector shall have until 10 days following the election to provide or cause to be provided to the appropriate election authority an authorized form of identification.

g. If an elector has cast a ballot using a method and at a time authorized by this Article, such ballot shall not be rejected for a reason attributable in whole or part to poll worker or election official error. The General Assembly shall enact laws providing for training and other measures to minimize the potential for errors by poll workers and election officials. If an elector has marked his or her ballot in such a manner that it may not be properly recorded by tabulation equipment, all votes on such ballot for candidates and issues which the elector is entitled to vote upon shall be counted if local election authorities are able to determine the elector's intent. When an elector casts a provisional ballot at a voting location in his or her county of residence, but not in the correct precinct, the election officials shall count all of the votes cast on such ballot, except any votes for candidates or issues not on the ballot in the precinct where that elector resides. A person who is unable to cast a regular ballot at an election shall be entitled, upon signing an affirmation attesting under penalty of election falsification to his or her qualifications as an elector, to cast a provisional ballot, which shall be counted if cast in the person's county of residence and it is verified that the person was otherwise qualified under this Article to vote in the election. A provisional voter shall have until 10 days following the election to provide or cause to be provided to the appropriate election authority any information necessary to establish his or her qualifications as an elector or to have his or her ballot counted. To facilitate the timely providing of such information, the identity of provisional voters at an election shall be publicly available.

h. The State may institute additional reliable methods for casting ballots as they become available through technological advancements. The General Assembly may pass laws expanding and facilitating the voting rights and opportunities guaranteed under this Article, but in no manner denying or limiting them. The State shall not impose any qualification, except as provided in this Article, nor institute any test, tax, charge or expense, as a condition to voting, registering to vote, or updating voter registration.

i. In requesting or casting a ballot, no person shall, with the purpose to defraud, impersonate another person or vote more than once in an election. Any person who does so shall be guilty of a felony.

~~Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote.~~

## **Exhibit G**

The Ballot Board's March 2, 2020 Certification of the Proposed  
Amendment to the Attorney General

# THE OHIO BALLOT BOARD

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Ohio Secretary of State Frank LaRose, Chair  
Senate President Larry Obhof, Vice-Chair  
Representative Paula Hicks-Hudson  
Mr. William Morgan  
Mr. Pavan Parikh

March 2, 2020

The Honorable Dave Yost  
Ohio Attorney General  
30 East Broad Street - 17<sup>th</sup> Floor  
Columbus, Ohio 43215

Re: Ballot Board determination that the "Secure and Fair Elections Amendment"  
contains four separate constitutional amendments.

Dear Attorney General Yost:

Acting pursuant to Ohio Revised Code 3519.01(A), on February 20, 2020, you transmitted to Secretary LaRose, in his capacity as chairman of the Ohio Ballot Board, a proposed constitutional amendment entitled the "Secure and Fair Elections Amendment."

As Secretary of the Ohio Ballot Board, I hereby certify that a quorum of the board met in public session on March 2, 2020, for the purpose of examining and certifying the petition in accordance with the provisions of Ohio Revised Code 3505.062(A).

I further certify that the Ohio Ballot Board determined that the proposed initiative petition contains more than one proposed constitutional amendment. Pursuant to the second paragraph of Ohio Revised Code 3505.062(A), the Ballot Board divided the initiative into four individual petitions, each containing only one proposed constitutional amendment. The Ballot Board's divisions relate to four distinct subjects: (1) a constitutional right regarding casting ballots; (2) a constitutional right regarding the manner in which one becomes a registered voter and the time that registration is effective; (3) a constitutional right for citizens with disabilities to register to vote and to vote; and (4) post-election audits. The four petitions are as follows:

1. The first proposed amendment consists of the Petitioners' proposed subsections (1) and (3); the first sentence of the unnumbered last paragraph; and the third and fourth sentences of the unnumbered last paragraph.



2. The second proposed amendment consists of the Petitioners' proposed changes to the current text of Article V, Section 1; Petitioners' proposed subsections (2) and (4); and the second sentence of the unnumbered last paragraph.
3. The third proposed amendment consists of the Petitioners' proposed subsection (5).
4. The fourth proposed amendment consists of the Petitioners' unnumbered sentence regarding post-election audits.

Sincerely,

A handwritten signature in blue ink that reads "Jeff Hobday". The signature is written in a cursive, flowing style.

Jeff Hobday

Secretary, Ohio Ballot Board  
22 North Fourth Street  
Columbus, Ohio 43215

## **Exhibit H**

The Ballot Board's Color-Coded Division of the Proposed Amendment  
into Four Amendments



## FULL TEXT OF PROPOSED AMENDMENT

yellow(1) =  
casting a ballot

Be it Resolved by the People of the State of Ohio that Article V, Section 1, of the Ohio Constitution is hereby amended to add the following language shown underlined below, and repeal the existing language shown by strikethrough. Current language that is not changed appears without underline or strikethrough:

blue(2)  
registration

### Section 1.

green(3)  
disability

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been is registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote.

pink(4)  
audits

Every citizen of the United States who is, or is eligible to become, an elector in Ohio shall have the following rights:

(1) The right, if serving in the military or residing outside of the United States, to have an absentee ballot sent beginning forty-six days before an election upon application if registered.

(2) The right to be registered to vote upon applying for, renewing, updating, or replacing an Ohio driver's license, learner's permit, or identification card with the agency responsible for issuing these documents, unless the citizen affirmatively states in writing that the citizen does not want to be registered to vote.

(3) The right, if registered to vote, to obtain and cast a ballot in person on weekdays during an early voting period preceding an election, which shall begin twenty-eight calendar days before the date of each election and end the day before the election, excepting state legal holidays on which the office of the Ohio Secretary of State is not open to the public. Preceding a general election, a minimum of twelve hours of early in-person voting shall also be made available over the two days of each of the final two weekends before the election.

(4) The right, during the early voting period and on Election Day, to submit in person a voter registration form and either proof of residency or military identification to an election official at any location where the citizen would otherwise be eligible to vote if they had registered by any other method. Any one form of identification accepted for voting under Ohio law as of January 1, 2020, shall be sufficient to prove residency for this registration method if it shows the current address of the voter. Persons who register with this method shall be immediately qualified to receive and cast a regular ballot in the election. The ballot shall be counted unless election administrators demonstrate that the individual is not qualified to vote. Nothing in this paragraph shall limit other rights to register.

(5) The right of individuals with disabilities to have full and equal access to register to vote and to vote.

A representative sample of statewide elections shall be audited to ensure the accuracy and integrity of elections.

This section shall be self-executing and shall be construed in favor of voters' rights. Subsections 2 and 4 shall take effect February 1, 2022. Any one form of identification accepted for voting under Ohio law as of January 1, 2020, shall continue to be sufficient to prove identification for voting. Nothing contained in this section shall prevent the general assembly from expanding voters' rights beyond what is provided herein.