

Proposed Constitutional Amendment

Jon Husted
Ohio Secretary of State



Jon Husted

I, Jon Husted, certify that printed below are the full text, ballot language, explanations and/or arguments that were certified to me by the Ohio Ballot Board, or as prescribed by law, for the two constitutional amendments proposed by the Ohio General Assembly pursuant to Article XVI, Section 1 of the Ohio Constitution and the constitutional amendment proposed by initiative petition pursuant to Article II, Section 1a of the Ohio Constitution.

IN TESTIMONY WHEREFORE, I have subscribed my name in Columbus, Ohio, this 18th day of September, 2015.

In addition to certifying the following State Issues for the General Election occurring November 3, 2015, R.C. 3505.062(G) and Ohio Constitution Article II, Section 1g require the Secretary of State to contract for the publication of this information once a week for three (3) consecutive weeks preceding the election in at least one newspaper of general circulation in each county in the state.

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Issue One

**Creates a bipartisan, public process
for drawing legislative districts**

Proposed Constitutional Amendment

Proposed by Joint Resolution of the General Assembly

**To enact new sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10
of Article XI and to repeal Sections 1, 2, 3, 4, 5,
6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Article XI of the
Constitution of the State of Ohio.**

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

The proposed amendment would:

- End the partisan process for drawing Ohio House and Senate districts, and replace it with a bipartisan process with the goal of having district boundaries that are more compact and politically competitive.
- Ensure a transparent process by requiring public meetings, public display of maps, and a public letter explaining any plan the Commission adopts by a simple majority vote.
- Establish the bipartisan Ohio Redistricting Commission, composed of 7 members including the Governor, the Auditor of State, the Secretary of State, and 4 members appointed by the majority and minority leaders of the General Assembly.
- Require a bipartisan majority vote of 4 members in order to adopt any final district plan, and prevent deadlock by limiting the length of time any plan adopted without bipartisan support is effective.

If passed, the amendment will become effective immediately.

| | | |
|--|-----|-------------------------------------|
| | YES | SHALL THE AMENDMENT BE APPROVED? |
| | NO | |

Explanation for Issue 1

The proposed amendment would end the partisan process for drawing Ohio House and Senate districts, and replace it with a bipartisan process with the goal of having district boundaries that are more compact and politically competitive.

Proposed Constitutional Amendment

Vote YES on Issue 1

A FAIR, BIPARTISAN, and TRANSPARENT PROCESS

VOTE YES on Issue 1. A YES vote will send a message that voters are tired of politics as usual and create a **fair, bipartisan, and transparent** redistricting process that will **make politicians accountable** to the voters.

Currently, it is far too easy for politicians to gerrymander their way into safe seats. Voting **YES on Issue 1**, will make sure state legislative districts are drawn to be **more competitive** and compact, and ensure that no district plan should be drawn to favor or disfavor a political party.

Fair

Voting YES on Issue 1 will establish fair and balanced standards for drawing state legislative districts, including that no district plan should favor a political party.

Voting YES on Issue 1 will help keep our communities together by requiring that a district plan split as few counties, municipalities, and townships as possible.

Bipartisan

Voting YES on Issue 1 will require bipartisan support of a seven-member commission to adopt new state legislative districts for 10 years.

Transparent

Voting YES on Issue 1 will create the bipartisan commission that is required to broadcast and conduct all of its meetings in public.

Voting YES on Issue 1 will require the bipartisan commission to share a plan for state legislative districts with the public and seek public input before adopting a new plan.

Make your vote count, **vote YES for ISSUE 1**

*Prepared by Senators Keith Faber and Joe Schiavoni
and Representatives Kirk Schuring and Mike Curtin*

Argument Against State Issue 1

The current process for drawing new legislative districts is adequate and has served Ohio well for many years. The gerrymandering that results from partisan control is not a bad process, because it leads to one-party control of government and voters can know who to hold responsible. Competitive districts are not a virtue, because politicians have to spend so much time campaigning for reelection and are not able to do as much legislative work.

Even when the apportionment board is controlled by a single party, it is still representative of the people's will since the members of the board, most of whom are statewide officials, were elected by popular vote. The board has been controlled exclusively by both of the major parties, so neither side of the political spectrum can be seen as having a long-term hold on redistricting. Historically, their control doesn't last forever.

The current process can be trusted to maintain fair district lines; a "no" vote maintains the status quo.

*Prepared by the Ohio Ballot Board as required
by Ohio Revised Code Section 3505.063(A).*

Proposed Constitutional Amendment

(130th General Assembly)

(Amended Substitute House Joint Resolution Number 12)

JOINT RESOLUTION

Proposing to enact new Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Article XI and to repeal Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Article XI of the Constitution of the State of Ohio to revise the redistricting process for General Assembly districts.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 3, 2015, a proposal to enact new Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Article XI of the Constitution of the State of Ohio to read as follows:

ARTICLE XI

Section 1. (A) The Ohio redistricting commission shall be responsible for the redistricting of this state for the general assembly. The commission shall consist of the following seven members:

- (1) The governor;
- (2) The auditor of state;
- (3) The secretary of state;
- (4) One person appointed by the speaker of the house of representatives;
- (5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;
- (6) One person appointed by the president of the senate; and
- (7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

The legislative leaders in the senate and the house of representatives of each of the two largest political parties represented in the general assembly, acting jointly by political party, shall appoint a member of the commission to serve as a co-chairperson of the commission.

(B)(1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a majority vote of the members of the commission, including at least one member of the commission who is a member of each of the two largest political parties represented in the general assembly, shall be required to do any of the following:

- (i) Adopt rules of the commission;
- (ii) Hire staff for the commission;
- (iii) Expend funds.

(b) If the commission is unable to agree, by the vote required under division (B)(2)(a) of this section, on the manner in which funds should be expended, each co-chairperson of the commission shall have the authority to expend one-half of the funds that have been appropriated to the commission.

(3) The affirmative vote of four members of the commission, including at least two members of the commission who represent each of the two largest political parties represented in the general assembly shall be required to adopt any general assembly district plan. For the purpose of this division, a member of the commission shall be considered to represent a political party if the member was appointed to the commission by a member of that political party or if, in the case of the governor, the auditor of state, or the secretary of state, the member is a member of that political party.

(C) At the first meeting of the commission, which the governor shall convene only in a year ending in the numeral one, except as provided in Sections 8 and 9 of this article, the commission shall set a schedule for the adoption of procedural rules for the operation of the commission.

The commission shall release to the public a proposed general assembly district plan for the boundaries for each of the ninety-nine house of representatives districts and the thirty-three senate districts. The commission shall draft the proposed plan in the manner prescribed in this article.

Before adopting, but after introducing, a proposed plan, the commission shall conduct a minimum of three public hearings across the state to present the proposed plan and shall seek public input regarding the proposed plan. All meetings of the commission shall be open to the public. Meetings shall be broadcast by electronic means of transmission using a medium readily accessible by the general public.

The commission shall adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Four weeks after the adoption of a general assembly district plan, the commission shall be automatically dissolved.

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this article.

Section 2. Each house of representatives district shall be entitled to a single representative in each general assembly. Each senate district shall be entitled to a single senator in each general assembly.

Section 3. (A) The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number “ninety-nine” and by the number “thirty-three” and the quotients shall be the ratio of representation in the house of representatives and in the senate, respectively, for ten years next succeeding such redistricting.

(B) A general assembly district plan shall comply with all of the requirements of division (B) of this section.

(1) The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, and the population of

each senate district shall be substantially equal to the ratio of representation in the senate, as provided in division (A) of this section. In no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation.

(2) Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law.

(3) Every general assembly district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line.

(C) House of representatives districts shall be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards:

(1) Proceeding in succession from the largest to the smallest, each county containing population greater than one hundred five per cent of the ratio of representation in the house of representatives shall be divided into as many house of representatives districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.

(2) Each county containing population of not less than ninety-five per cent of the ratio of representation in the house of representatives nor more than one hundred five per cent of the ratio shall be designated a representative district.

(3) The remaining territory of the state shall be divided into representative districts by combining the areas of counties, municipal corporations, and townships. Where feasible, no county shall be split more than once.

(D)(1)(a) Except as otherwise provided in divisions (D)(1)(b) and (c) of this section, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district.

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(b) If a municipal corporation or township has territory in more than one county, the contiguous portion of that municipal corporation or township that lies in each county shall be considered to be a separate municipal corporation or township for the purposes of this section.

(c) If a municipal corporation or township that is located in a county that contains a municipal corporation or township that has a population of more than one ratio of representation is split for the purpose of complying with division (E)(1)(a) or (b) of this section, each portion of that municipal corporation or township shall be considered to be a separate municipal corporation or township for the purposes of this section.

(2) Representative districts shall be drawn so as to split the smallest possible number of municipal corporations and townships whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(3) Where the requirements of divisions (B), (C), and (D) of this section cannot feasibly be attained by forming a representative district from whole municipal corporations and townships, not more than one municipal corporation or township may be split per representative district.

(E)(1) If it is not possible for the commission to comply with all of the requirements of divisions (B), (C), and (D) of this section in drawing a particular representative district, the commission shall take the first action listed below that makes it possible for the commission to draw that district:

(a) Notwithstanding division (D) (3) of this section, the commission shall create the district by splitting two municipal corporations or townships whose contiguous portions do not contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(b) Notwithstanding division (D) (2) of this section, the commission shall create the district by splitting a municipal corporation or township whose contiguous portions contain a population of more than fifty per cent, but less than

one hundred per cent, of one ratio of representation.

(c) Notwithstanding division (C) (2) of this section, the commission shall create the district by splitting, once, a single county that contains a population of not less than ninety-five per cent of the ratio of representation, but not more than one hundred five per cent of the ratio of representation.

(d) Notwithstanding division (C) (1) of this section, the commission shall create the district by including in two districts portions of the territory that remains after a county that contains a population of more than one hundred five per cent of the ratio of representation has been divided into as many house of representatives districts as it has whole ratios of representation.

(2) If the commission takes an action under division (E)(1) of this section, the commission shall include in the general assembly district plan a statement explaining which action the commission took under that division and the reason the commission took that action.

(3) If the commission complies with divisions (E)(1) and (2) of this section in drawing a district, the commission shall not be considered to have violated division (C)(1), (C)(2), (D)(2), or (D) (3) of this section, as applicable, in drawing that district, for the purpose of an analysis under division (D) of Section 9 of this article.

Section 4. (A) Senate districts shall be composed of three contiguous house of representatives districts.

(B)(1) A county having at least one whole senate ratio of representation shall have as many senate districts wholly within the boundaries of the county as it has whole senate ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining senate district.

(2) Counties having less than one senate ratio of representation, but at least one house of representatives ratio of representation, shall be part of only one senate district.

(3) If it is not possible for the commission to draw representative

districts that comply with all of the requirements of this article and that make it possible for the commission to comply with all of the requirements of divisions (B)(1) and (2) of this section, the commission shall draw senate districts so as to commit the fewest possible violations of those divisions. If the commission complies with this division in drawing senate districts, the commission shall not be considered to have violated division (B)(1) or (2) of this section, as applicable, in drawing those districts, for the purpose of an analysis under division (D) of Section 9 of this article.

(C) The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation in the senate determined under division (A) of Section 3 of this article.

(D) Senate districts shall be numbered from one through thirty-three and as provided in Section 5 of this article.

Section 5. At any time the boundaries of senate districts are changed in any general assembly district plan made pursuant to any provision of this article, a senator whose term will not expire within two years of the time the plan becomes effective shall represent, for the remainder of the term for which the senator was elected, the senate district that contains the largest portion of the population of the district from which the senator was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following the provisions of this section, the plan shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms.

Section 6. The Ohio redistricting commission shall attempt to draw a general assembly district plan that meets all of the following standards:

(A) No general assembly district plan shall be drawn primarily to favor or disfavor a political party.

(B) The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.

(C) General assembly districts shall be compact.

Nothing in this section permits the commission to violate the district standards described in Section 2, 3, 4, 5, or 7 of this article.

Section 7. Notwithstanding the fact that boundaries of counties, municipal corporations, and townships within a district may be changed, district boundaries shall be created by using the boundaries of counties, municipal corporations, and townships as they exist at the time of the federal decennial census on which the redistricting is based, or, if unavailable, on such other basis as the general assembly has directed.

Section 8. (A)(1) If the Ohio redistricting commission fails to adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one, in accordance with Section 1 of this article, the commission shall introduce a proposed general assembly district plan by a simple majority vote of the commission.

(2) After introducing a proposed general assembly district plan under division (A)(1) of this section, the commission shall hold a public hearing concerning the proposed plan, at which the public may offer testimony and at which the commission may adopt amendments to the proposed plan. Members of the commission should attend the hearing; however, only a quorum of the members of the commission is required to conduct the hearing.

(3) After the hearing described in division (A)(2) of this section is held, and not later than the fifteenth day of September of a year ending in the numeral one, the commission shall adopt a final general assembly district plan, either by the vote required to adopt a plan

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under division (B)(3) of Section 1 of this article or by a simple majority vote of the commission.

(B) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, except as provided in Section 9 of this article.

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) of this section, if the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until two general elections for the house of representatives have occurred under the plan.

(b) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) of Section 1 of this article, and that plan is adopted to replace a plan that ceased to be effective under division (C)(1)(a) of this section before a year ending in the numeral one, the plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until a year ending in the numeral one, except as provided in Section 9 of this article.

(2) A final general assembly district plan adopted under division (C)(1)(a) or (b) of this section shall include a statement explaining what the commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences, as described in

division (B) of Section 6 of this article. At the time the plan is adopted, a member of the commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning the statement included with the plan.

(D) After a general assembly district plan adopted under division (C)(1)(a) of this section ceases to be effective, and not earlier than the first day of July of the year following the year in which the plan ceased to be effective, the commission shall be reconstituted as provided in Section 1 of this article, convene, and adopt a new general assembly district plan in accordance with this article, to be used until the next time for redistricting under this article. The commission shall draw the new general assembly district plan using the same population and county, municipal corporation, and township boundary data as were used to draw the previous plan adopted under division (C) of this section.

Section 9. (A) The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this article.

(B) In the event that any section of this constitution relating to redistricting, any general assembly district plan made by the Ohio redistricting commission, or any district is determined to be invalid by an unappealed final order of a court of competent jurisdiction then, notwithstanding any other provisions of this constitution, the commission shall be reconstituted as provided in Section 1 of this article, convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next time for redistricting under this article in conformity with such provisions of this constitution as are then valid.

(C) Notwithstanding any provision of this constitution or any law regarding the residence of senators and representatives, a general assembly district plan made pursuant to this section shall allow thirty days for persons to

change residence in order to be eligible for election.

(D)(1) No court shall order, in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article.

(2) No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.

(3) If the supreme court of Ohio determines that a general assembly district plan adopted by the commission does not comply with the requirements of Section 2, 3, 4, 5, or 7 of this article, the available remedies shall be as follows:

(a) If the court finds that the plan contains one or more isolated violations of those requirements, the court shall order the commission to amend the plan to correct the violation.

(b) If the court finds that it is necessary to amend not fewer than six house of representatives districts to correct violations of those requirements, to amend not fewer than two senate districts to correct violations of those requirements, or both, the court shall declare the plan invalid and shall order the commission to adopt a new general assembly district plan in accordance with this article.

(c) If, in considering a plan adopted under division (C) of Section 8 of this article, the court determines that both of the following are true, the court shall order the commission to adopt a new general assembly district plan in accordance with this article:

(i) The plan significantly violates those requirements in a manner that materially affects the ability of the plan to contain districts whose voters favor political parties in an overall proportion that corresponds closely to the statewide political party preferences of the voters of Ohio, as described in division (B) of Section 6 of this article.

(ii) The statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party does

not correspond closely to the statewide preferences of the voters of Ohio.

Section 10. The various provisions of this article are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions.

EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, new Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Article XI take effect January 1, 2021, and Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Article XI of the Constitution of the State of Ohio are repealed from that effective date.

Proposed Constitutional Amendment

Issue Two

Anti-monopoly amendment; protects the initiative process from being used for personal economic benefit

Proposed Constitutional Amendment

Proposed by Joint Resolution of the General Assembly

**Proposing to amend
Section 1e of Article II of the Constitution
of the State of Ohio.**

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

The proposed amendment would:

- Prohibit any petitioner from using the Ohio Constitution to grant a monopoly, oligopoly, or cartel for their exclusive financial benefit or to establish a preferential tax status.
- Prohibit any petitioner from using the Ohio Constitution to grant a commercial interest, right, or license that is not available to similarly situated persons or nonpublic entities.
- Require the bipartisan Ohio Ballot Board to determine if a proposed constitutional amendment violates the prohibitions above, and if it does, present two separate ballot questions to voters. Both ballot questions must receive a majority yes vote before the proposed amendment could take effect.
- Prohibit from taking effect any proposed constitutional amendment appearing on the November 3, 2015 General Election ballot that creates a monopoly, oligopoly, or cartel for the sale, distribution, or other use of any federal Schedule I controlled substance.
- The Ohio Supreme Court has original, exclusive jurisdiction in any action related to the proposal.

If passed, the amendment will become effective immediately.

| | | |
|--|-----|----------------------------------|
| | YES | SHALL THE AMENDMENT BE APPROVED? |
| | NO | |

Explanation for Issue 2

The proposed amendment would prohibit any individual or entity from proposing a constitutional amendment that would grant a monopoly, oligopoly, or cartel, specify or determine a tax rate, or confer a commercial interest, right, or license that is not available to similarly situated people or nonpublic agencies.

If the Ohio Ballot Board determines that a citizen-proposed constitutional amendment violates those prohibitions, two separate ballot questions must be presented to voters: The first ballot question is should Ohio's Constitution be amended to allow a monopoly, oligopoly, cartel, special tax rate, or commercial interest, right, or license not available to others in the Ohio Constitution? The second question is should this particular monopoly be allowed? Both questions must receive a majority yes vote in order to become effective.

The proposal would prohibit from taking effect any proposed constitutional amendment that appears on the November 3, 2015, statewide ballot creating a monopoly, oligopoly, or cartel for the sale, distribution, or other use of any federal Schedule I controlled substance.

Proposed Constitutional Amendment

Vote YES on Issue 2

Protect Our Constitution from Monopoly Interests

Your Yes Vote on Issue 2 Will:

- Ensure that Ohio's Constitution is not for sale and **prohibit special interests** from amending the Constitution to create **monopolies, oligopolies or cartels**.
- **Prohibit special interests** from buying an amendment to our Constitution that creates **permanent preferential tax rates or commercial rights** for themselves or for any business.
- Prohibit special interests from amending our Constitution to guarantee financial profits for themselves or get special economic privileges that are not available to other similarly situated persons or entities.
- Ensure that our Constitution is used as intended by its framers – for matters that benefit the broad public interest.
- Ensure that our Constitution cannot be abused and corrupted by those interested in obtaining exclusive deals and special commercial benefits.
- Uphold our state's traditional spirit and traditional meaning of free commerce, fair trade and fair dealing.

Why Ohio Needs Issue 2:

- The Constitution should be used to protect fundamental rights of all individuals, not to guarantee financial profits for a select few.
- Special interests are using our state's initiative process to create exclusive financial benefits for themselves in our Constitution. They are writing themselves exclusive constitutionally protected monopolies in our most important document.
- These special interests hire political operatives to push proposed amendments that would give investors monopoly control over certain commercial activities.
- Ohio's citizens' initiative process has existed since 1912 and was intended to be used only in the broad public interest, never for maximizing private return on investment for self-interested investors or any corporations they form.
- Nineteen states have constitutional provisions banning monopolies. It is time for Ohio to become the twentieth state.

End the special deals for special interests, **vote YES for Issue 2**

*Prepared by Senator Keith Faber and
Representatives Ryan Smith, Mike Curtin, and David Leland*

Argument Against State Issue 2

The basic structure of the people's ability to amend the Ohio Constitution by initiative petition dates to 1912. The status quo is adequate.

House Joint Resolution 4 attempts to limit the potential personal financial benefit to the donors who pay for the signature gathering activities sometimes used to place ballot issues before the voters. There is no reason to prevent anyone from amending the Ohio Constitution, even if it is for selfish, personal benefit, so long as the people support it by a majority vote.

Some opponents of House Joint Resolution 4 say that the language is too vague and might unintentionally preclude future public policy considerations from being brought by the initiated constitutional amendment process.

If adopted, House Joint Resolution 4 would prohibit from taking effect any proposed constitutional amendment adopted at the general election of November 3, 2015 that creates a monopoly, oligopoly, or cartel for the sale, distribution, or other use of any federal Schedule I controlled substance. If the people of Ohio want to allow the creation of a monopoly or cartel, they should be given the opportunity to do so, and no barriers should stand in their way.

*Prepared by the Ohio Ballot Board as required
by Ohio Revised Code Section 3505.063(A).*

Proposed Constitutional Amendment

(131st General Assembly)

(Substitute House Joint Resolution
Number 4)

JOINT RESOLUTION

Proposing to amend Section 1e of Article II of the Constitution of the State of Ohio to prohibit an initiated constitutional amendment that would grant a monopoly, oligopoly, or cartel, specify or determine a tax rate, or confer a commercial interest, right, or license to any person or nonpublic entity.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 3, 2015, a proposal to amend Section 1e of Article II of the Constitution of the State of Ohio to read as follows:

ARTICLE II

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

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

(2) If a constitutional amendment proposed by initiative petition is certified to appear on the ballot and, in the opinion

of the Ohio ballot board, the amendment would conflict with division (B)(1) of this section, the board shall prescribe two separate questions to appear on the ballot, as follows:

(a) The first question shall be as follows:

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

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

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

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

(C) The supreme court of Ohio shall

have original, exclusive jurisdiction in any action that relates to this section.

EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, Section 1e of Article II as amended by this proposal shall take immediate effect and existing Section 1e of Article II of the Constitution of the State of Ohio shall be repealed from that effective date.

SCHEDULE

Division (B)(1) of Section 1e of Article II of the Constitution of the State of Ohio, as amended by this proposal, does not apply to any provision of the Constitution of the State of Ohio in effect prior to the effective date of that amendment.

Proposed Constitutional Amendment

Issue Three

Grants a monopoly for the commercial production and sale of marijuana for recreational and medicinal purposes

Proposed Constitutional Amendment

Proposed by Initiative Petition

To add Section 12 of Article XV of the Constitution of the State of Ohio.

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

The proposed amendment would:

- Endow exclusive rights for commercial marijuana growth, cultivation, and extraction to self-designated landowners who own ten predetermined parcels of land in Butler, Clermont, Franklin, Hamilton, Licking, Lorain, Lucas, Delaware, Stark, and Summit Counties. One additional growth facility may be allowed for in four years only if existing facilities cannot meet consumer demand.
- Permit retail sale of recreational marijuana at approximately 1,100 locations statewide. Such retail establishments must have a state license that may be obtained only if the electors of the precinct where the store will be located approve the use of the location for such purpose at a local option election.
- Legalize the production of marijuana-infused products, including edible products, concentrates, sprays, ointments and tinctures by marijuana product manufacturing facilities.
- Allow each person, 21 years of age or older, to grow, cultivate, use, possess, and share up to eight ounces of usable homegrown marijuana plus four flowering marijuana plants if the person holds a valid state license. Allow each person, 21 years of age or older, to purchase, possess, transport, use, and share up to 1 ounce of marijuana for recreational use. Authorize the use of medical marijuana by any person, regardless of age, who has a certification for a debilitating medical condition.
- Prohibit marijuana establishments within 1,000 feet of a house of worship, public library, public or chartered elementary or secondary school, state-licensed day-care center, or public playground, however: after a certain date, a new day-care, library, etc., cannot force a preexisting marijuana establishment to relocate by opening a new location within 1,000 feet of the business.

- Prohibit any local or state law, including zoning laws, from being applied to prohibit the development or operation of marijuana growth, cultivation, and extraction facilities, retail marijuana stores, and medical marijuana dispensaries unless the area is zoned exclusively residential as of January 1, 2015 or as of the date that an application for a license is first filed for a marijuana establishment.
- Create a special tax rate limited to 15% on gross revenue of each marijuana growth, cultivation, and extraction facility and marijuana product manufacturing facility and a special tax rate limited to 5% on gross revenue of each retail marijuana store. Revenues from the tax go to a municipal and township government fund, a strong county fund, and the marijuana control commission fund.
- Create a marijuana incubator in Cuyahoga County to promote growth and development of the marijuana industry and locate marijuana testing facilities near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties, at a minimum.
- Limit the ability of the legislature and local governments from regulating the manufacture, sales, distribution and use of marijuana and marijuana products. Create a new state government agency called the marijuana control commission (with limited authority) to regulate the industry, comprised of seven Ohio residents appointed by the Governor, including a physician, a law enforcement officer, an administrative law attorney, a patient advocate, a resident experienced in owning, developing, managing and operating businesses, a resident with experience in the legal marijuana industry, and a member of the public.

| | | |
|--|------------|---|
| | YES | SHALL THE AMENDMENT BE APPROVED? |
| | NO | |

Proposed Constitutional Amendment

VOTE YES ON ISSUE 3

- ☞ **VOTE YES FOR PERSONAL CHOICE.** Issue 3 legalizes marijuana for medicinal and personal use in Ohio. It allows persons over age 21 to buy, possess, and grow a small amount of marijuana for their own use.
- ☞ **VOTE YES FOR COMPASSIONATE CARE.** Issue 3 authorizes non-profit dispensaries for medicinal marijuana, which Ohio doctors could prescribe to treat patients with cancer, Parkinson's, Alzheimer's, sickle cell anemia or other debilitating diseases; children with epilepsy; and veterans with post-traumatic stress disorder.
- ☞ **VOTE YES FOR GOOD JOBS AND WELL-FUNDED LOCAL GOVERNMENT SERVICES.** Issue 3 establishes an industry that will create tens of thousands of jobs in Ohio. It permits, regulates, and taxes marijuana sales by licensed growers and retailers. It will eventually generate more than \$550 million annually in tax revenue, 85% of which will go directly to local governments, which may spend these funds on public safety, economic development, road/bridge repair, and other infrastructure improvements.
- ☞ **VOTE YES FOR A TIGHTLY REGULATED INDUSTRY.** Issue 3 creates an independent commission that will regulate the growth and sale of marijuana and issue licenses to ten initial grow facilities. The commission may license additional grow facilities as necessary. The initial ten-license limit is consistent with recommended best practices, and avoids problems other states with more grow sites have encountered in maintaining quality, ensuring safety, tracking product, and collecting taxes. Contrary to unfounded charges, the market established by Issue 3 does not constitute a monopoly, cartel, or oligopoly, and the commission's authority prevents any from developing. These charges have been trumped up by the legislature, which failed for decades to vote on legalizing marijuana, not even for medicinal purposes, and now opposes letting tax revenue from Issue 3 bypass it and go directly to local governments, replacing funding that the legislature previously slashed.

Submitted by Committee in Charge of the Initiative Petition: Barbara Gould, Taylor Deutschle, Robert J. Letourneau, Rosemary Robinson and Patrick T. McHenry

Official Argument Against Issue 3

Filed with Ohio Secretary of State, August 17, 2015

VOTE NO ON ISSUE 3

No Marijuana Monopoly in Ohio's Constitution

Issue 3 cements in the Constitution a billion-dollar marijuana monopoly for a small group of wealthy investors.

- Issue 3 gives them exclusive rights to commercial marijuana profits in Ohio, and insulates them from any business competition or act of the legislature.
- The investors who wrote Issue 3 set their own preferential tax rates directly into the Constitution – rates that can't be changed by the Legislature like those on beer, wine, and tobacco.

Issue 3 puts our children at risk.

- Issue 3 legalizes marijuana-infused products like candy and cookies, which often have dangerously high levels of THC, and are highly tempting to children, including very young children.
- High limits on personal possession of marijuana will result in broad exposure of our children and underage high school and college students to marijuana.

Issue 3 will flood Ohio with marijuana.

- Proponents imply that Issue 3 allows small amounts of marijuana for recreational use. In reality, it allows every adult 21 or over in the state the right to possess as much as 9 ounces (more than half a pound) of marijuana, or about 500 average-sized marijuana joints. In addition, every adult could possess four flowering marijuana plants at home.
- Issue 3 allows 1,159 retail marijuana stores – that's more locations than Starbucks or McDonalds, and nearly three times the number of state liquor stores.

Republican and Democrat elected officials, children's health advocates, hospitals, doctors, addiction counselors, faith leaders, mental health professionals, parents, educators, law enforcement officials, farmers, chambers of commerce and leading business groups all urge a NO vote on Issue 3.

Stop the marijuana monopoly. Keep marijuana away from our children. Vote NO on Issue 3.

Signed by: Eric Burkland, President, Ohio Manufacturers' Association, Reverend Dr. David Cobb, Pastor, Emanuel Baptist Church, Bill Denihan, CEO, ADAMHS Board Cuyahoga County, Jack Fisher, Executive Vice President, Ohio Farm Bureau Federation, Gordon Gough, President & CEO, Ohio Council of Retail Merchants, Elise Spriggs, Drug Free Action Alliance

Proposed Constitutional Amendment

FULL TEXT OF AMENDMENT

Be it Resolved by the People of the State of Ohio that Article XV of the Ohio Constitution is hereby amended to add the following Section:

§12 Legalization, Regulation and Taxation of Medical and Personal Use of Marijuana

(A) Summary

This section provides for the legalization of medical marijuana for use by persons with debilitating medical conditions and for the legalization of marijuana and marijuana-infused products for personal use by individuals 21 years of age and older. This section establishes the Ohio Marijuana Control Commission (“Commission”) to regulate the state’s marijuana industry in a manner similar to the state’s regulation of alcohol. A patient may obtain medical marijuana only after being issued a medical marijuana certification by an Ohio-licensed physician, and only from state-regulated, not-for-profit medical marijuana dispensaries. Sale of marijuana and marijuana-infused products for personal use is limited to licensed retail marijuana stores, and the location of any such store must receive approval of the voters of the precinct in which the store would be located. It is lawful for persons 21 years of age or older to grow and possess no more than four homegrown marijuana plants for personal, non-commercial use; however, growth, cultivation and extraction of marijuana and medical marijuana to be sold within the state will occur only at site-specific, state-regulated facilities. Marijuana-infused and medical marijuana-infused products may be produced only by state-regulated facilities. No marijuana establishment may be within 1,000 feet of a house of worship, a publicly-owned library, playground, an elementary or secondary school, or a state-licensed child day-care center. Marijuana Growth, Cultivation & Extraction (“MGCE”) facilities and Marijuana Product Manufacturing (“MPM”) facilities must pay a special flat tax equal to 15% of their gross revenue, and marijuana retail stores must pay a special flat tax equal to 5% of their gross revenue, without any deduction for expenses. Revenue from these special

taxes must be allocated as follows: 55% to municipalities and townships on a per capita basis, 30% to counties on a per capita basis, and 15% to a Marijuana Control Commission Fund for the reasonable and necessary costs of operating the Commission, to provide additional funding for mental health and addiction and treatment services, and to fund a marijuana innovation and business incubator to award support to Ohio-based companies, colleges and universities, nonprofit medical centers, and other nonprofit research institutions to engage in research and development, and to create new products, companies and jobs associated with the medical marijuana and marijuana industries in Ohio.

(B) Use of Medical Marijuana for Debilitating Medical Conditions

It is lawful for patients with debilitating medical conditions to acquire, administer, purchase, possess, transport, and use, and for licensed caregivers to acquire, administer, purchase, possess, transport and transfer, medical marijuana pursuant to a valid medical marijuana certification. The state shall regulate the conduct of physicians in issuing medical marijuana certifications in a manner similar to its regulation of medical prescriptions. A treating physician who has examined a patient and determined that he or she has a debilitating medical condition may issue a medical marijuana certification if: (1) a bona fide physician-patient relationship exists; (2) the physician determines the risk of the patient’s use of medical marijuana is reasonable in light of the potential benefit; and (3) the physician has explained the risks and benefits of using medical marijuana to the patient. If the patient is younger than 18 years of age, treatment involving medical marijuana may not be provided without consent by at least one custodial parent, guardian, conservator, or other person with lawful authority to consent to the patient’s medical treatment.

No agency, including a law enforcement agency, of this state or of a political subdivision of this state may initiate an administrative, civil, or criminal investigation of a physician, nor shall a physician be denied any right or privilege or be subject to any disciplinary action, solely on the ground that the

physician: (1) discussed with a patient the use of medical marijuana as a treatment option; or (2) issued a medical marijuana certification under this section, or otherwise made a written or oral statement that, in the physician’s professional opinion, the potential benefits of the patient using medical marijuana would likely outweigh any health risks.

(C) Establishment of Medical Marijuana Not-For-Profit Dispensaries

Medical marijuana shall only be dispensed and sold to patients and caregivers by not-for-profit medical marijuana dispensaries licensed under this section, in accordance with a medical marijuana certification issued by the patient’s current treating physician, who shall exercise the same professional care, ethics and judgment in doing so as is required in issuing medical prescriptions.

The Commission shall issue licenses to, and shall promulgate and enforce regulations governing the operations of, not-for-profit medical marijuana dispensaries. Such regulations shall include rules regarding the number of licenses within any political subdivision of the state. The Commission shall promulgate the initial regulatory rules for such dispensaries by May 30th of the year following adoption of this section.

MGCE facilities and MPM facilities shall sell to the dispensaries, at their lowest wholesale prices, medical marijuana and medical marijuana-infused products, respectively, sufficient to satisfy patient demand for them in this state.

From the Marijuana Control Commission Fund established herein, the Commission may fund the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries and establish a program to provide low-cost medical marijuana to qualifying patients who are unable to afford the full cost. Nothing in this section, however, shall require any health insurance provider or any government agency or authority to reimburse any patient for expenses related to the use of medical marijuana.

(D) Personal Use of Marijuana and Authorization of Homegrown Marijuana

It is lawful for persons 21 years of age or older to purchase, possess, transport, use and share with another person 21 years of age or older one ounce or less of marijuana or its equivalent in marijuana-infused products.

It is lawful for persons 21 years of age or older to grow, cultivate, use, possess and share with another person 21 years of age or older homegrown marijuana in an amount not to exceed four flowering marijuana plants and eight ounces of usable homegrown marijuana at a given time; provided, however, that such person must first obtain a non-transferrable license pursuant to Commission-promulgated rules and regulations, which include, at a minimum, registration requirements and rules ensuring that homegrown marijuana is not grown or consumed within public view and that home-growing takes place in an enclosed, locked space inaccessible to persons under the age of 21.

(E) Taxation of Marijuana Revenue

The state shall levy and collect a special flat tax of 15% on all gross revenue of each MGCE facility and MPM facility, and 5% on all gross revenue of each retail marijuana store. “Gross revenue” as used in this subdivision means 100% of all revenue received without deduction for any expenses or distribution of any profit. Such facilities and stores shall also pay the state commercial activities tax and all other local taxes, assessments, fees and charges as apply to businesses in general. Such facilities and stores shall not receive any abatement, credit or deduction that is unavailable to other businesses. Dispensaries shall pay the same taxes, assessments, fees and charges that other not-for-profit organizations are required to pay. No additional taxes, assessments, fees or charges shall be levied on the operations, revenue, or distributed income of a marijuana establishment, other than the license fees authorized under this section.

One hundred percent of the revenues generated from the special tax shall be collected and distributed by the state for the following purposes (the “Purposes”):

- (1) 55% to a Municipal and Township Government Stabilization Fund with 100% of such funds being

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distributed to every municipality and township on a per capita basis, excluding, in the case of a township, population that is also within a municipality. Such funds shall be used for public safety and health, including police, fire and emergency medical services, road and bridge repair, and other infrastructure improvements;

- (2) 30% to a Strong County Fund with 100% of such funds being distributed to each county on a per capita basis. Such funds shall be used for public safety and health, including law enforcement, economic development, road and bridge repair, and other infrastructure improvements; and
- (3) 15% to a Marijuana Control Commission Fund with 100% of such funds being distributed in the following order for: (a) the reasonable and necessary costs of operating the Commission; (b) funding for the marijuana innovation and business incubator established hereunder; (c) to the extent the Commission so elects, the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries established under this section, (d) mental health and addiction prevention and treatment programs and services; and (e) to the extent the Commission so elects, a program to provide low-cost medical marijuana to qualifying patients who are unable to afford the full cost.

The above described Funds shall be established in the state treasury and the above described special tax collected and distributed monthly. Funds distributed under this subdivision shall supplement, not supplant, funding obligations of the state and local governments. Accordingly, all such distributions shall be disregarded for purposes of determining whether funding obligations imposed by other sections of this constitution or by the revised code are met. The Funds will be allocated and distributed consistent with the foregoing Purposes by the applicable state or local government entity.

(F) Establishment of Marijuana Growth, Cultivation & Extraction Facilities

The growth and cultivation of marijuana and medical marijuana, and the extraction of cannabinoids from marijuana and medical marijuana, for sale and medical use within this state shall be lawful only at licensed MGCE facilities. Subject to the exceptions set forth herein, there shall be only ten MGCE facilities, which shall operate on the following real properties:

- (1) Being an approximate 40.44 acre area in Butler County, Ohio, identified by the Butler County Auditor, as of February 2, 2015, as tax parcel numbers Q6542084000008 and Q6542084000041;
- (2) Being an approximate 13.434 acre area in Clermont County, Ohio, identified by the Clermont County Auditor, as of February 2, 2015, as tax parcel numbers 413103B284 and 373103E301;
- (3) Being an approximate 19.117 acre area in Franklin County, Ohio, being a portion of a larger parent parcel which is identified by the Franklin County Auditor, as of February 2, 2015, as tax parcel number 040-004959-00. The approximate 19.117 area is described as follows: all of the real property being described as Franklin County, Ohio, tax parcel number 040-004959-00, less and except the portion of such tax parcel lying south of the centerline of the stream known as Grant Run Tributary No. 3;
- (4) Being an approximate 24.466 acre area in Hamilton County, Ohio, identified by the Hamilton County Auditor, as of February 2, 2015, as tax parcel number 500-0081-0004;
- (5) Being an approximate 35.031 acre area in Licking County, Ohio, identified by the Licking County Auditor, as of February 2, 2015, as tax parcel number 063-140952-00.000;
- (6) Being an approximate 76.83 acre area in Lorain County, Ohio, being a portion of two larger parent parcels which are identified by the Lorain County Auditor, as of February 2, 2015, as tax parcel numbers 03-00-053-108-013 and 03-00-054-102-008. The approximate 76.83 acre area is described as follows: all of the real property being described as Lorain County, Ohio tax parcel numbers 03-00-053-108-013 and 03-00-054-102-008, less and except the portions of such tax parcels lying northerly of a line located 2,100 feet southerly of and

parallel with Colorado Avenue (also known as State Route 611); (7) Being an approximate 28.459 acre area in Lucas County, Ohio, identified by the Lucas County Auditor, as of February 2, 2015, as tax parcel number 22-74697; (8) Being an approximate 24.948 acre area in Delaware County, Ohio, identified by the Delaware County Auditor, as of February 13, 2015, as tax parcel number 419-230-01-035-000; (9) Being an approximate 27.18 acre area in Stark County, Ohio, identified by the Stark County Auditor, as of February 2, 2015, as tax parcel number 7701271; and (10) Being an approximate 29.0052 acre area in Summit County, Ohio, identified by the Summit County Auditor, as of February 2, 2015, as tax parcel number 3009928.

No local zoning, land use laws, agricultural regulations, subdivision regulations or similar provisions or governmental consents and approvals applicable to creating transferrable legal descriptions, or to any subsequent assignment of different parcel numbers to the aforesaid real properties shall prohibit the creation of transferrable and recordable legal descriptions or separate tax parcel numbers for any of the aforesaid real properties. In addition, notwithstanding the identification of the real properties by reference to the parcel numbers as set forth above, any MGCE facility may expand its structures and related operations to adjacent real property which may be identified by different parcel numbers so long as all other applicable terms of this section are met.

The Commission shall promulgate the initial regulatory rules for the operation of MGCE facilities by May 30th of the year following adoption of this section; however, the Commission shall issue the application form for a provisional license within 60 days of the adoption of this section. If an owner of one of the above-designated sites chooses not to apply for a provisional license within 90 days of the passage of this section, the Commission may issue a license to operate a MGCE facility at a different site in lieu of that site so long as all other criteria set forth herein are met.

The Commission shall issue one-year provisional licenses within 90 days

of the passage of this section to the owners of the above-designated real properties who have applied for licenses to operate MGCE facilities subject to the following conditions: payment of an initial licensing fee of \$100,000 and the filing of affidavits by the chief executive officer and chief financial officer affirming under oath that the facility will: comply with all requirements under this section; comply with all applicable health, safety, prevailing wage, building code, sanitation, environmental, land use, and employment laws and regulations not in conflict with this section; employ industry best practices with respect to the growth, cultivation and extraction of marijuana; comply with generally accepted accounting principles; comply with Commission regulations upon adoption; and subject the facilities and operations to immediate inspection and review by Commission personnel upon demand. Notwithstanding the foregoing, no existing local or state law shall be applied to prohibit the development or operation of such facilities. No later than six months after the facility commences its operations, the Commission shall inspect such facility and review its operations to confirm that it has complied with the assurances set forth in its officers' affidavits. If the Commission determines it has not, it shall order immediate remedial action as to that facility; and if the facility fails to remediate within 120 days, the Commission may suspend the provisional license until satisfied that all remedial actions have been implemented. The Commission shall issue non-provisional annual licenses to MGCE facilities upon expiration of their provisional licenses so long as such facilities are meeting their obligations under their provisional licenses and demonstrate the ability to comply with all regulations promulgated by the Commission regarding the operation of MGCE facilities.

To ensure that the supply of regulated marijuana is adequate to meet consumer demand in this state, beginning in the fourth year following the adoption of this section, the Commission shall develop and make publicly available annual consumer demand metrics for marijuana and medical marijuana based in substantial part on total gross sales

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of each within the state in the previous year. If the Commission determines during its annual audits of the MGCE facilities that such facilities collectively failed to produce marijuana and medical marijuana sufficient to substantially meet the published consumer demand metrics for the previous year and cannot demonstrate that they are likely to do so in the ensuing year, the Commission may issue a license for an additional MGCE facility at a site other than what has been designated herein.

If the Commission determines as part of its annual audit that a MGCE facility is in material noncompliance with applicable laws or regulations, the Commission may order remedial action; and, to the extent such MGCE facility fails to materially comply with the Commission's remediation order within the reasonable time period set forth by the order, the Commission may suspend or revoke the MGCE facility's license. If the Commission revokes a MGCE license for failure to remediate material noncompliance, the Commission may issue a license for a MGCE facility at a site other than what has been designated herein. If a MGCE facility terminates or indefinitely suspends its operations, the Commission may relocate that facility or revoke the facility's license and issue a license for a MGCE facility at a site other than what has been designated herein.

(G) Establishment of Marijuana Product Manufacturing Facilities

The manufacturing, processing and packaging of marijuana-infused products, including medical marijuana-infused products, shall be lawful only at licensed MPM facilities pursuant to a licensing and regulatory framework established by the Commission by May 30th of the year following adoption of this section. MPM facilities may also manufacture, process and package marijuana accessories. Such facilities may sell marijuana-infused products made only from marijuana purchased from licensed MGCE facilities.

The Commission shall establish rules regulating the chemical content and/or potency of marijuana-infused products and shall ensure they are prominently displayed on the products' packaging.

As part of the regulatory framework governing MPM facilities, the Commission shall create and oversee a special division within the Commission staffed with individuals with extensive experience in food and prescription drug regulation to assist the Commission in promulgating industry-leading standards regulating the manufacture, processing, transportation, packaging and advertising of marijuana-infused products, including ensuring that marijuana-infused products are not manufactured, packaged or advertised in ways that create a substantial risk of attractiveness to children.

(H) Establishment of Retail Marijuana Stores

Marijuana and marijuana-infused products may be sold to individuals 21 years of age and older only by licensed retail marijuana stores. Such stores may sell only marijuana purchased from licensed MGCE facilities and marijuana-infused products purchased from licensed MPM facilities, and shall sell no other goods or services except for marijuana accessories and related products. No retail marijuana store shall allow to be consumed any marijuana or marijuana-infused product that has been opened on the premises. No retail marijuana store shall sell marijuana or marijuana-infused products at a price less than the store paid for such products.

No later than 60 days following adoption of this section, the Commission shall promulgate the initial regulatory rules for licensing such stores. The Commission may promulgate rules regarding the number of licenses within any precinct of the state; provided, however, that the number of stores statewide shall not exceed the ratio of one to ten thousand based on the state's population as determined by the U.S. Census Bureau's Population Estimates Program (PEP) and revised annually according to either the PEP estimates or the decennial Census, and that no such license shall be issued to a store unless the electors of the precinct where the store will be located have approved the use of the location for such purpose at a local option election. Except for provisions unique to authorization of alcohol sales, including limits on resubmitting an issue to the voters, such

elections shall be held and conducted by election authorities in the same manner as local option elections for the approval by the electors of a precinct of the sale of alcohol to the public at a specific location. No later than 60 days following adoption of this section, the secretary of state shall prescribe forms for the petition process and procedures for the conduct of retail marijuana store elections. Such elections shall be held on dates authorized by law for special elections for other ballot questions, including dates for primary and general elections, occurring not less than 90 days after a petition for such election is filed. The petitioner shall reimburse the expense of conducting the special election where there are no candidates or other questions on the precinct ballot. In the calendar year following adoption of this section, special elections for such question may also be held on the first Tuesday after the first Monday of May and the petitioner shall reimburse the cost of conducting such election.

(I) Ohio Marijuana Control Commission

There is hereby established the Ohio Marijuana Control Commission, which shall regulate the acquisition, growth, cultivation, extraction, production, processing, manufacture, testing, distribution, retail sales, licensing and taxation of medical marijuana, marijuana and marijuana-infused products and the operations of marijuana establishments and home growing. The Commission shall have seven members who have not served as elected public officials in the eight years prior to their appointment, and shall be composed of the following: a licensed Ohio physician, a sworn Ohio law enforcement officer, a licensed Ohio attorney experienced in administrative law, an Ohio-based patient advocate, an Ohio resident with demonstrated experience in owning, developing, managing and operating businesses, an Ohio resident with demonstrated experience in the legal marijuana industry, and a public member. The initial seven members shall be appointed no later than 40 days after the adoption of this section for terms commencing upon appointment. The initial Commission members shall hold the first meeting of

the Commission no later than 45 days after the adoption of this section. In order to create staggered terms, the initial seven appointees shall be for terms lasting as follows: the attorney, the physician, the industry-experienced member and the Ohio-based patient advocate will serve terms lasting until December 31st of the fourth year following adoption; and the business owner, the public member and the sworn law enforcement officer will serve terms lasting until December 31st of the second year following adoption. All subsequent terms on the Commission shall be for four years ending on December 31st of the fourth year of the term. All Commission members shall be appointed by the governor to full or unexpired terms as defined herein and shall be residents of Ohio.

The Commission shall adopt rules to facilitate this section's implementation and continuing operation. The initial regulatory rules required to be adopted herein by specific dates shall be adopted by the Commission notwithstanding any other provision of law regarding promulgation of administrative rules, provided that the Commission shall offer an opportunity for public input. Regulatory rules shall not prohibit the operation of marijuana establishments or home growing, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include, but not be limited to: procedures for the application for, and the issuance, renewal, transfer, suspension, and revocation of, a license to operate a marijuana establishment or marijuana testing facility or qualify as a caregiver; a schedule of application, licensing and renewal fees to be deposited into the Marijuana Control Commission Fund, provided such fees shall not exceed \$50,000 for MGCE facilities, save for the \$100,000 provisional license fee required herein, \$25,000 for MPM facilities, \$10,000 for retail marijuana stores and marijuana testing facilities, and registration fees of \$50 for home growing, with this upper limit adjusted annually for inflation; qualifications for licensure that are directly and demonstrably related to marijuana establishment; registration requirements for home growing; regulations regarding debilitating

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medical conditions, medical marijuana certifications, caregiver qualifications; requirements to prevent the sale and diversion of medical marijuana, marijuana, homegrown marijuana and marijuana-infused products to persons under the age of 21; requirements for testing the safety and potency of medical marijuana, marijuana and marijuana-infused products; labeling requirements for medical marijuana, marijuana and marijuana-infused products sold or distributed by a marijuana establishment; health and safety regulations for the acquisition, growth, cultivation, harvesting, processing, packaging, preparation, extraction, handling, distribution, transportation, manufacture, and production of medical marijuana, marijuana and/or marijuana-infused products; restrictions on the advertising and display of medical marijuana, marijuana and marijuana-infused products to persons under the age of 21; civil penalties for failure to comply with regulations made pursuant to this section, including enhanced civil penalties for repeat violations; and rules governing the allocation of resources from the marijuana innovation and business incubator established hereunder to third parties. The Commission shall also establish and implement a system for real-time tracking and monitoring of all marijuana, medical marijuana, and marijuana-infused products from the initial germination and/or extraction through the final consumer transaction.

Beginning in the second year following the adoption of this section, the Commission shall conduct an annual audit of each marijuana establishment to certify, at a minimum, that such marijuana establishment is in compliance with all applicable rules and regulations. To the extent it determines that a marijuana establishment is in material noncompliance with applicable rules and regulations, the Commission may order remedial action; and, to the extent that establishment fails to comply with the Commission's order within the reasonable time period set forth by that order, the Commission may suspend or revoke the establishment's license.

The Commission shall issue annual licenses to marijuana establishments,

and register home growing applicants, no later than 90 days after receipt of the completed application unless the Commission finds the applicant is not eligible for a license or registration under applicable laws and regulations. Thereafter, licensees shall be entitled to have their licenses renewed pursuant to the Commission's rules, unless the Commission determines that the licensee has repeatedly failed to comply with its remedial orders. Such renewal shall be issued or denied prior to expiration of the current license. Ohio's administrative procedure statutes generally applicable to other licensing bodies not in conflict with this section shall apply to rulemaking, license denials, suspensions and revocations by the Commission.

The Commission shall serve as a clearing house for scientific and medical industry research on the use of marijuana, marijuana-infused products and medical marijuana. The Commission shall establish a marijuana innovation and business incubator in Cuyahoga County to award support to Ohio-based public and private business entities, colleges and universities, nonprofit medical centers, and other nonprofit research institutions to engage in research and development, as well as to create new products, companies and jobs, associated with the medical marijuana and marijuana industries in Ohio. The Commission shall provide the incubator funding and appoint advisors to it who have demonstrated a commitment to the goal of national leadership in job creation and medical, technological, economic, environmental sustainability, product safety, and entrepreneurial innovation in the medical marijuana and marijuana industries.

The Commission shall employ necessary and qualified persons, including enforcement agents, and shall retain services of qualified third parties, including experts, to perform its duties.

(J) General Provisions and Specific Limitations

1) No marijuana establishment shall be located within 1,000 feet of the primary building structure used for any of the following: a house of worship exempt from taxation

under the revised code; a publicly-owned library; a public or chartered non-public elementary or secondary school; or a state licensed child day-care center, or within 1,000 feet of any public playground or playground adjacent to any of the foregoing primary building structures, so long as such house of worship, library, playground, school or day-care center was in existence within the 1,000-foot zone on or before January 1, 2015 in the case of a MGCE facility or the date of an applicant's first application for a license in the case of a MPM facility, retail marijuana store, or not-for-profit medical marijuana dispensary.

2) In no event shall a person consume marijuana, homegrown marijuana or marijuana-infused products in any public place, or in, or on the grounds of, a public or chartered non-public elementary or secondary school, a state licensed child day-care center, a correctional facility or community corrections facility, or in a vehicle, aircraft, train or motorboat. No person shall operate, navigate, or be in actual physical control of any vehicle, aircraft, train or motorboat while under the influence of medical marijuana, marijuana, homegrown marijuana or marijuana-infused products. The foregoing provisions, other than operating or being in physical control of a vehicle, aircraft, train or motorboat, do not prohibit a patient from possessing or using medical marijuana in accordance with a medical marijuana certification. The general assembly shall pass laws for enforcing all of the preceding.

3) Other than for medical marijuana transferred or sold by a dispensary to a patient or caregiver, and for transfers between a patient and caregiver consistent with Commission regulations, it shall be unlawful for any person to knowingly sell or transfer marijuana, homegrown marijuana, medical marijuana or marijuana-infused products to a person under the age of 21. The general assembly

shall enact laws defining this conduct as child endangerment and shall enact enhanced penalties for violations of such laws.

- 4) Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, or transportation of medical marijuana, marijuana, homegrown marijuana, marijuana-infused products or marijuana accessories in the workplace or to affect employers' ability to restrict the use of such products by employees, except that a patient with a medical marijuana certification may self-administer the medical marijuana subject to the same conditions applied to administration of prescribed medications.
- 5) No person shall have an ownership interest in, or be an officer or director of, a marijuana establishment who is under the age of 21 or who has been convicted of a felony offense within the prior five years. No person shall continue to hold an ownership interest in, or an officer or director position with, a marijuana establishment upon conviction of a felony and exhaustion of any appeals.
- 6) No person under the age of 21 shall be permitted to be on the premises of a marijuana establishment, except that a patient 18 to 20 years of age may be on a dispensary's premises for the purpose of obtaining medical marijuana pursuant to a medical marijuana certification issued for such patient.
- 7) It shall be lawful for persons 21 years of age or older to purchase, possess, transfer, transport, use and share with other persons 21 years of age or older marijuana accessories within the state; however, this age limitation shall not apply to patients with valid medical marijuana certifications.
- 8) It shall not be unlawful for a licensed MGCE facility, or its designated employees or agents, to handle, sell, store, deliver, transport or transfer marijuana to

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a licensed MPM facility, licensed marijuana testing facility or a licensed retail marijuana store; nor shall it be unlawful for a licensed MGCE facility, or its designated employees or agents, to sell, store, handle, deliver, transport or transfer medical marijuana to a licensed MPM facility, licensed dispensary or licensed marijuana testing facility. It shall not be unlawful for a licensed MPM facility, or its designated employees or agents, to handle, sell, store, receive, deliver, transport or transfer marijuana accessories or marijuana-infused products to another licensed MPM facility, a licensed retail marijuana store or licensed marijuana testing facility; nor shall it be unlawful for a licensed MPM facility, or its designated employees or agents, to sell, handle, store, receive, deliver, transport or transfer medical marijuana-infused products to another licensed MPM facility, a licensed dispensary or a licensed marijuana testing facility; nor shall it be unlawful for a licensed MPM facility, or its designated employees or agents, to sell, handle, store, receive, deliver, transport or transfer marijuana accessories to a licensed dispensary. It shall not be unlawful for licensed retail marijuana stores, licensed medical marijuana dispensaries, and licensed marijuana testing facilities, or their designated employees or agents, to purchase, obtain, handle, store, receive, deliver, transport or transfer marijuana accessories, marijuana, marijuana-infused products or medical marijuana from licensed MGCE and MPM facilities, and other retail marijuana stores, licensed medical marijuana dispensaries, and licensed marijuana testing facilities.

- 9) MGCE facilities and MPM facilities are prohibited from selling, delivering, transporting or transferring marijuana, medical marijuana, marijuana-infused products and marijuana accessories directly to consumers, and no retail marijuana store or dispensary may be located on the premises of a MGCE or MPM facility.

- 10) Marijuana establishments shall be subject to all applicable state and local laws and regulations related to health, safety and building codes, including signage. Notwithstanding the foregoing, no local zoning, land use laws, agricultural regulations, subdivision regulations or similar provisions shall prohibit the development or operation of marijuana establishments, provided that no such marijuana establishment shall be located in a district zoned exclusively residential as of January 1, 2015 for MGCE facilities, or as of the date that an application for a license is first filed by a MPM facility, retail marijuana store or not-for-profit medical marijuana dispensary.

(K) Self-Executing, Severability, Conflicting Provisions, and Enactment of Laws

All provisions of this section are self-executing except as specified herein, are severable, and, except where otherwise indicated in the text, shall supersede all conflicting state and local laws, charters and regulations or other provisions of this constitution. The general assembly may pass laws implementing the provisions of this section that are not in conflict with its provisions. Nothing in this section requires the violation of federal law or purports to give immunity under federal law.

(L) Definitions

As used in this section, unless the context otherwise requires,

- 1) “Adjacent real property” means real property that is within 1,000 feet or less of the existing property line of a licensed MGCE facility.
- 2) “Cannabinoids” means the chemical compounds in marijuana having a variety of pharmacologic properties.
- 3) “Caregiver” means an individual licensed by the Commission, other than the patient and the patient’s physician, who is 21 years of age or older and is the person responsible for managing the well-being of a patient with a debilitating medical condition for whom a medical marijuana certification has been

issued under this section. To qualify as a caregiver, this individual’s responsibilities to the patient must include, at a minimum, provision of services in addition to provision of medical marijuana.

- 4) “Debilitating medical condition” means cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, sickle-cell anemia, ulcerative colitis, dementia, Alzheimer’s disease, or treatment for such conditions; a chronic or debilitating disease or medical condition, or treatment for such conditions, which produces, for a specific patient, one or more of the following, and which, in the professional opinion of the patient’s physician, foreseeably may be alleviated by the use of medical marijuana: cachexia, post-traumatic stress disorder, severe pain, severe nausea, seizures, including those that are characteristic of epilepsy, or persistent muscle spasms, including those that are characteristic of multiple sclerosis. The Commission shall establish and update the list of debilitating medical conditions for which medical marijuana certifications may be issued on an annual basis, consistent with current, peer-reviewed medical research.
- 5) “Homegrown marijuana” means marijuana grown by a person 21 years of age or older at that person’s place of residence for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration, including but not limited to trading and bartering. The sale of homegrown marijuana is unlawful.
- 6) “Marijuana” and “marihuana” mean all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, salt derivative, mixture, or preparation of the plant, its seeds, or its resin. “Marijuana” includes hashish, as defined in the

revised code, but does not include homegrown marijuana, medical marijuana or industrial hemp, as defined by the general assembly, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

- 7) “Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended, or designed for vaporizing, ingesting, inhaling, or otherwise introducing, marijuana or medical marijuana into the human body.
- 8) “Marijuana Growth, Cultivation and Extraction Facility” or “MGCE facility” means one or more structures in which, or the real property on which, the growth, cultivation, harvesting, processing, packaging, preparation, and labeling of all marijuana and medical marijuana available for sale or medical use within the state, and the extraction of cannabinoids from marijuana plants for use in marijuana-infused products or medical marijuana-infused products available for sale or medical use within the state, is lawful.
- 9) “Marijuana-infused products” means concentrated marijuana products that are composed of marijuana or medical marijuana and other lawful ingredients and are intended for use or consumption, such as, but not limited to, edible products, marijuana concentrates, sprays, ointments, and tinctures.
- 10) “Marijuana establishment” means a MGCE facility, a MPM facility, a retail marijuana store, or a not-for-profit medical marijuana dispensary. A marijuana establishment’s actions, and the actions of that establishment’s employees and agents, are lawful and are not subject to civil or criminal penalties so long as such actions are in compliance with this section, with

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- any laws passed by the general assembly in furtherance of this section, and with any rules and regulations promulgated by the Commission.
- 11) “Marijuana Product Manufacturing Facility” or “MPM facility” means a facility licensed by the Commission to develop, manufacture, prepare, and/or package marijuana-infused products, medical marijuana-infused products and/or marijuana accessories.
- 12) “Marijuana testing facility” means a facility or laboratory licensed by the Commission to acquire, possess, store, transfer, grow, cultivate, harvest, and process medical marijuana, marijuana and marijuana-infused products for the explicit and limited purposes of engaging in research related to, and/or certifying the safety and potency of, medical marijuana, marijuana and marijuana-infused products. At a minimum, such facilities shall be situated near colleges and universities in Athens, Cuyahoga, Lorain, Mahoning, Scioto and Wood Counties. Such facilities are prohibited from selling medical marijuana, marijuana and marijuana-infused products to marijuana establishments and consumers, and may transfer medical marijuana, marijuana and marijuana-infused products only to a marijuana establishment that has engaged the facility to perform quality control testing on those products or in connection with a safety and potency certification process developed by the Commission.
- 13) “Medical marijuana” means marijuana used to treat a debilitating medical condition, and includes medical marijuana-infused products used to treat debilitating medical conditions.
- 14) “Medical marijuana certification” means a written certification issued on a form prescribed by the Commission by a patient’s treating physician acting in the usual course of his or her professional practice.
- 15) “Not-for-profit medical marijuana dispensary” or “dispensary” means an entity incorporated under Ohio’s not-for-profit corporation law licensed to purchase medical marijuana from MGCE facilities, medical marijuana-infused products from MPM facilities and marijuana accessories, and to sell medical marijuana and marijuana accessories to patients and caregivers who present valid medical marijuana certifications pursuant to rules adopted by the Commission.
- 16) “Ohio Marijuana Control Commission” or “Commission” means the agency created herein to regulate the marijuana industry, including, but not limited to, regulating, researching and reporting on the growth, cultivation, production, processing, manufacture, testing, distribution, transportation, retail sales, licensing, and taxation of marijuana, medical marijuana and marijuana-infused products.
- 17) “Patient” means an Ohio resident who has a debilitating medical condition.
- 18) “Physician” means an individual who maintains, in good standing, a license to practice medicine issued by the State of Ohio.
- 19) “Retail marijuana store” means a retail space occupied by an entity licensed to purchase marijuana from MGCE facilities, marijuana-infused products from MPM facilities, and marijuana accessories, and to sell marijuana, marijuana-infused products, and marijuana accessories for personal use to consumers.
- 20) “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.