



**Cleveland State University**

# **PRESS KIT**

## **Election Reform Ballot Issues 2-5**

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**in conjunction with CSU's**

**CENTER FOR ELECTION INTEGRITY**

**[www.csuohio.edu/cei/](http://www.csuohio.edu/cei/)**

The *Center for Election Integrity* is a partnership of CSU's Colleges of Law and Urban Affairs. It brings together the University's longstanding elections expertise from law, public administration, and other fields in order to facilitate sound efforts improve Ohio's election performance at every level. The Center seeks to achieve informed public discourse on election issues, undertake scholarly work, and provide a range of consultation to legislative, administrative, and civic leaders regarding persistent problems in Ohio election performance – and their range of solutions. Ultimately the mission of the *Center for Election Integrity* is to facilitate Ohio becoming a prominent national model of fair, lawful, and transparently accurate elections.

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## **BACKGROUND**

The 2000 presidential election, and especially the problems arising in Florida, convinced Americans that election procedures can be complicated and controversial yet vitally important. In 2004, election controversy hit closer to home as the national spotlight focused on Ohio's election administration system. In the aftermath of the November election and presidential recount, a range of probing questions and concerns occupied congressional investigators, national panels of review, and Ohio citizens' groups. The issues raised included alleged voter registration obstacles, erroneously disqualified voters and wrongly rejected provisional ballots, various types of election fraud, and disproportionate disenfranchisement of racial minorities. Other observers contend that no election system can be 100% error free, and that Ohio's system preserves fundamental fairness and access. Regardless of political affiliation, most would agree that in a time when elections are decided by small margins, it is imperative that the public and media be well informed about existing election system problems and proposed solutions.

### **Reform Ohio Now: Founding and Initiative Drafting Process**

The four proposed constitutional amendments grew out of a series of discussions in November 2004 between two Ohio State University political scientists (Herb Asher and Richard Gunther). Professors Asher and Gunther were extremely dissatisfied with what they perceived to be irregularities or illegalities in the November 2004 election and the gross unfairness of political manipulation of legislative and congressional districts to serve the interests of a particular political party or candidates.

The first public presentation of these proposals (in very generic form) occurred at a meeting held in the Worthington Municipal Building (in the Columbus area) on December 8, 2004. Their concerns were heightened by the General Assembly's passage of new Ohio campaign finance reform legislation. During December 2004 and January 2005, Asher entered into informal discussions of these proposals with a number of prominent Ohio citizens, culminating in the *Reform Ohio Now (RON)* coalition.

The RON coordinating committee held several meetings to work out the basic principles underlying the eventual citizen-initiated proposed constitutional amendments. An extensive series of e-mail exchanges led to revisions in the texts of the proposals. Issue 4, for example, went through 20 different versions before the drafters felt confident in the final product.

Two main organizations participated in the drafting process: Common Cause (national and its Ohio branch) and TheRestOfUs.org. Common Cause (national) has considerable background in redistricting issues. TheRestofUs is a more narrowly based organization that is dedicated to achieving fair campaign finance reform and fair redistricting procedures in all States. Currently, TheRestofUs is focusing on reform efforts in Ohio, Florida, California, Oregon and Massachusetts.

In addition to Professors Asher and Gunther, attorneys were centrally involved in drafting the language of the proposed Ohio constitutional amendments. The drafters include: former Ohio Supreme Court Justice Andy Douglas; Franklin County Treasurer Rich Cordray; Attorney Jeff Wice (who has worked with the Democratic National Committee and the New York General

Assembly); Law Professor Michael McDonald (Wice and McDonald are premier redistricting experts in the country); Ohio election lawyer and Kerry-Edwards Recount Attorney Don McTigue; Democratic Party Lobbyist Paul Tipps, and others. As background for some election reform proposals, the drafters studied proposals that had originated with the League of Women Voters of Ohio.

### **Ohio's Initiative Process**

(major steps)

- The Summary of a proposal must first be given to the attorney general accompanied by 100 signatures. The Attorney General certifies it if it is “fair and truthful” and files it with the Secretary of State. 35 Ohio Revised Code § 3519.01a (2005)
- The Secretary of State then has ten days to certify the proposal and the signatures.
- The proponents of the proposal undertake a petition effort around the whole State to gather signatures of support from at least 10% (322,899) of the State’s “electors” a/k/a registered voters. *See* Ohio Constitution, Article 2.01a
- Petitions demonstrating sufficient support must be completed and submitted at least 90 days before a general election for the question to be presented on the Ohio ballot in the next general election (*see* Ohio Const. art. 2.01a). The signatures are checked for their validity. The Secretary of State announces whether sufficient valid signatures were obtained.
- The Ohio Ballot Board determines the language to be used in the Ballot Summary of the proposal that will be presented to voters.

## Issue 2

### **WHETHER TO AUTHORIZE BROAD ACCESS TO ABSENTEE BALLOTS AND EARLY VOTING POLLING SITES**

Issue 2 includes two types of procedural changes which are separated here for analytic and legal clarity.

#### **A. Absentee Voting by Mail**

##### **1. Current Law/Procedures**

**Summary:** Ohio voters must vote in person on Election Day in the precinct where they are registered. Absentee voting allows voters who cannot make it to the polls in person to cast their ballot, usually through the mail. Absentee voting in Ohio is currently permitted only for a limited number of specified reasons:

**An absentee ballot may validly be requested and cast only if one of these circumstances apply:**

- voter is 62 years of age or older
- voter has a physical illness or personal disability
- voter or a family member will be hospitalized on election day
- voter will be absent from county of residence on election day
- voter is a full-time firefighter, peace officer, or provider of emergency medical services
- voter is an election official or board of elections employee
- voter cannot vote on election day because of a religious belief
- voter will be in jail for a misdemeanor or awaiting trial for a misdemeanor or felony
- voter is confined to a public or private institution within his or her county
- voter is on active duty in Ohio with the organized militia

Source: Ohio Revised Code §3509.02

#### **Requesting an absentee ballot**

- Via Internet: Complete an absentee ballot application available on the internet and mail it to voter's County's Board of Elections
- Call, fax, or write to the County Board of Elections with a request that an application be mailed
- Ohio procedures specify that if a voter requests an absentee ballot, that voter will not be allowed to vote at the polling place on Election Day; this has been a matter of legal controversy owing to the voter not always having received the absentee ballot and yet being effectively disenfranchised if the absentee ballot application was not processed in a timely manner or the mails were slow.

**Note:** In order to be valid, completed absentee ballot applications must include a great deal of personally identifying information, including the voter's signature as it appears on the voter registration card.

Source: Ohio Revised Code §3509.03

#### **Returning an application**

- Return by mail: Application must be received at County Board of Elections by noon, 3 days before the day of the election

- Return in person: Application must be received at Board of Elections by close of office hours, one day before the election; some exceptions are available for hospital confinements  
Source: Ohio Revised Code §3509.03

### **Returning an absentee ballot**

- Return by mail: ballot must be received at Board of Elections by close of polls on Election Day. Postage must be paid by voter.
- Return in person: ballot must be received at the Board of Elections by close of polls on Election Day.
  - Note: A close relative may deliver the absentee ballot in person if the voter so requests and states the relative's name and relation on the application.
  - Note: Representatives of the Board of Election can also be requested on the application to deliver the ballot for the voter on election day.
- Exception: If voter is outside of the U.S. on election day, absentee ballots will still be counted if signed and postmarked prior to close of polls, and received by Board of Elections no later than 10 days after election day (or 20 days after election day for a presidential election).
- Note: Absentee ballots must include the voter's signature (not on the ballot but on the form, so that the secret ballot can be preserved and validity of the voter's right to vote can be checked). The signature does not have to be in the presence of a witness and does not have to be notarized.  
Source: Ohio Rev. Code §3905.05

## **2. New Process if the Ballot Issue Passes and Rationale**

### **Eligibility**

- Eliminates the special circumstances that one must currently satisfy in order to vote absentee; voters would not be required to state their reason or an excuse for voting by absentee ballot.
- Eliminates the rule that voters who requested an absentee ballot cannot vote at the polls on Election Day; if a voter casts an absentee ballot and mails it, but the County Board of Elections does not receive it one day prior to Election Day, the voter will now be allowed to cast a provisional ballot on Election Day. If the mailed absentee ballot arrives within 10 days after Election Day, that ballot will be counted and the provisional discarded.
- Increases the identification and other requirements for the absentee voting application:
  - The elector must provide one of the following three:
    - Driver's license number
    - Last four digits of social security number
    - A copy of current valid photo ID or copy of current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector.
  - A statement that the person requesting the ballot is a qualified elector.

### **Returning an absentee ballot:**

- Voters are no longer required to pay postage when returning their ballots; voters will be provided with a pre-addressed, postage prepaid envelope for returning their ballot.

- Ballots can be returned later than the close of polls on Election Day. If the postmark is not later than the day of the election, ballots will now be counted so long as they arrive within 10 days after Election Day.

**Comparison with Other States:** 26 other states currently offer a similar “no-fault” absentee voting that is being proposed in Ohio.

**Postage:** In most States, the voter must pay for postage if returning the absentee ballot by mail. Only Hawaii, Minnesota, Nevada, and West Virginia pay for return postage. Issue 2 requires that absentee ballot envelopes have pre-paid return postage but does not address whether this will be a county, State or combined fiscal responsibility.

**Witness / Notary Signature:** Many States require that an absentee ballot be countersigned by a witness or be notarized. Ohio currently does not have a witness / notary requirement for absentee ballot signatures and Issue 2 does not propose any change on this point.

### **3. PRO -- Reasons to Support**

#### **Accessibility to Voting without the Threat of Criminal Sanctions**

The current requirements for absentee voting are extremely stringent. A voter must sign the application and attest to the fact of falling within one of the very specific circumstances. Should the absentee voter not have clarity about whether a certain circumstance will apply (e.g., care for an ill relative in the hospital on Election Day), the voter is arguably guilty of a felony. The proposed amendment would make the franchise more accessible by eliminating the pigeonhole requirements and criminal sanctions of current absentee voting law.

#### **Similarity to other states**

Proposed changes would bring Ohio in line with the other States that allow no-fault absentee voting.

#### **Flexibility and Broader Participation**

Proponents of the changes argue that the current predetermined categories for absentee eligibility are too restrictive. For example, under current rules, absentee ballots are unavailable for voters whose work schedules or family commitments prevent them from getting to the polls on election day.

*“Anyone should have the right to vote by mail, whether out on business, feeling under the weather, or just plain busy on Tuesdays.”*

-- Matthew Damschroder, Director of Franklin County Board of Elections

Source: [http://newstandardnews.net/content/?action=show\\_item&itemid=1249](http://newstandardnews.net/content/?action=show_item&itemid=1249)

#### **Decrease in Disenfranchisement**

1. Currently, should a voter request an absentee ballot application, the voter is not permitted to cast a ballot at the polling place on the day of the election. This is true regardless of whether the voter ever filled out and returned the absentee application. The proposed amendment would allow the voter at least to cast a provisional ballot on Election Day and would therefore decrease the instances of disenfranchisement.

2. Currently, the governing law states that an absentee ballot must be received by the Board of Elections prior to the time the polls close on Election Day in order for the ballot to be counted. The proposed amendment allows a 10 day grace period in which the ballot will be counted as

timely so long as the postmark is not later than the day of the election. This again would decrease the instances of voter disenfranchisement

### **Reduced congestion, confusion at polls**

Proponents argue that the increased flexibility in methods for voting might relieve congestion at polling places on election day. In the most recent Ohio election, some voters complained of waiting hours to vote, while others had difficulty finding their correct precinct within their polling place. Source: [http://www.pbs.org/newshour/bb/politics/july-dec04/polling\\_11-02.html](http://www.pbs.org/newshour/bb/politics/july-dec04/polling_11-02.html) Perhaps if no-fault absentee voting were allowed, some voters might choose to skip the hassles of election day lines and potentially confusing polling places and mail their ballots from home. If enough voters choose to vote this way, congestion at the polls would be reduced.

*“Providing Ohioans with an expanded menu of more convenient voting options will further voter participation and help eliminate needless delays at our polling places.”*

-- Kenneth Blackwell , Ohio Secretary of State

Source: <http://www.sos.state.oh.us/News/Read.aspx?ID=113>

### **Increased participation from the disabled**

Some advocates for the disabled claim the changes would increase access to voting for citizens with disabilities, even though “personal illness or physical disability” is one of the categories for which absentee voting is allowed under current law. The anticipated increase would come from disabled voters who may be able to travel to and from their polling places, but may be unable to stand in long lines. Source: [http://www.nvri.org/about/ohio\\_HB3\\_testimony\\_050405.pdf](http://www.nvri.org/about/ohio_HB3_testimony_050405.pdf)

## **3. CON -- Reasons to Reject**

**Permits Coercion** Voting at a site authorized and staffed by election officials virtually eliminates any possibility of family or other coercion for an elector to cast votes in a certain manner — or even to have the ballot completed by another

**Promotes Fraud** Providing postage pre-paid envelopes lowers the cost of organized absentee ballot fraud — a key area for election controversies such as in the Washington State Governor’s race recount last fall.

**Increase in Instances of Disenfranchisement?** Currently, should a voter wish to vote by absentee ballot, and fall into one of the permitted circumstances, the voter needs only to furnish information relating to residence and their date of birth. The proposed amendment increases the amount of identification and verification necessary to obtain an absentee ballot, possibly increasing the obstacles to voting via absentee ballot.

**Not Necessary** Ohio already provides generous absentee voting provisions. Currently, any Ohio voter with a legitimate reason for being absent on Election Day can obtain an absentee ballot. Ohio now provides 16 reasons for absentee voting including: military service; health and physical disability issues; work related issues; being age 62 or older; or, simply that the voter expects to be absent from the county on Election Day for personal reasons. Thus, changing the Ohio Constitution to expand absentee voting is not warranted.

**Too Costly to the Public** The cost of providing postage prepaid envelopes for absentee ballots will add to the taxes shouldered by Ohioans with no clear benefit.

**Far too Long a Period for Voting** By extending the period for casting absentee ballots far beyond what is needed, additional administrative burdens and confusion are introduced into the system. This can lead to greater administrative error.

## **B. Early Voting**

### **1. Current Law/Procedures**

Under current Ohio statutory law, an elector must go to his or her polling place and cast a ballot in person, unless the voter qualifies for an absentee ballot. The Ohio Constitution does not provide for “early voting,” by which a voter can cast his or her ballot prior to the designated date of the election. Other States have instituted a system of early voting, varying the number of days prior to an election in which an elector can cast a ballot.

### **2. New Process if the Ballot Issue Passes and Rationale**

Would allow qualified electors the choice to vote in person at the County Board of Elections or at other designated locations by the Board up to 35 days prior to an election. An elector would need no specific reason or excuse to vote early.

### **3. PRO -- Reasons to Support**

**Greater voter participation** No-excuse early voting gives voters the opportunity for greater participation in elections by making voting more convenient and accessible to voters. Will give working people, parents with small children, the sick, elderly and disabled more options and greater access to the electoral participation through voting.

**Reduce crowds on busy election days** Will help to alleviate problems at the polls such as long lines, broken equipment, confusing procedures, and problems with registration. Crowding and long-lines at polling places will be less common. County Boards can select appropriate sites for voter convenience.

### **4. CON-- Reasons to Reject**

**Insufficient Voter Knowledge** Voters may not have sufficient information about the candidates, or new information might be revealed prior to Election Day that would cause them to change their vote.

**Lack of Uniformity** This proposal does not ensure that every Ohioan will have the same opportunity to vote early. The amendment does not create a statewide standard that must be followed for designation of times and locations for early voting. The rules governing early voting could vary widely from county to county, because the amendment gives each county Board of Elections the discretion to designate the times and locations for early voting. These features undermine the equality of voting rights, rather than enhance them.

**Costs** Maintenance of early voting locations will add substantially to the cost of running elections, especially if sites other than the Board of Elections’ offices are used. This is a taxpayer issue. The

expenses of administering in-person early voting by requiring staff, additional voting sites, and any equipment for 35 days prior to the election could be quite significant.

**Many questions are unanswered:**

- How will this proposal's provisions for early mail-in ballots affect pending SB 36, which requires government issued photo identification as a prerequisite to vote?
- Other states have seen a 2-3 percent increase in voters by allowing early voting. Is this small increase worth the cost?
- Does the 35-day window provide the Board of Elections with any "down time"? What are the repercussions of this?

## Issue 3

### **Restricting Contributions to Political Campaigns**

Money allows the economic power of its possessor to be transferred into political party causes. Therefore Congress, many States, and some localities have tried to curb the influences that stem from large monetary contributions to political campaigns.

Several reasons are frequently offered for imposing stringent control over campaign contributions: (1) campaign finance reform will give qualified candidates with good ideas, but little money, a fair chance to reach office; (2) campaign finance reform will level the playing field between incumbents and challengers by limiting the institutional advantages of incumbency; (3) restrictions will alleviate the time politicians spend fundraising to allow them to engage in more productive activities; (4) it will limit the excessive influence of special interests and large political contributors, especially when they convince legislators to help them at the public's expense; (5) campaign finance reform will help restore people's faith in the integrity of the government in an era of cynicism.

In opposition, some argue that money has always and will always find its way into politics and the best way to handle this in the public interest is via full disclosure rather than attempting to restrict the contributions. By insisting on full, truthful, and rapid disclosure of contributions, the public has the ability to evaluate the candidate's relationships and take that fact into account in choosing how to vote. They argue it is far better to have the money legally changing hands and funding campaigns than to have it surreptitiously offered and accepted.

#### **1. Current Law/Procedures**

In 2005, a new set of Ohio statutory provisions concerning campaign finance went into effect that were sponsored primarily by Rep. DeWine and Sen. Gardner. These laws addressed contributions by individual citizens and organizations. The enactment raised the maximum amount of money an individual could donate to a State political candidate in a given year. Currently, a single person may now donate up to \$10,000 to State office political candidates for the primary election and \$10,000 for the general election.

Additionally, individuals may contribute up to \$15,000 a year to a campaign legislative fund. These legislative funds are maintained by State political parties to promote candidates for the House or Senate. Corporations, labor unions, and non-profit organizations may not contribute directly to any political activity with money obtained through union or organization dues, or from corporate funds. However, organizations and corporations may contribute to funds created by county and state political parties. These are to be used in limited manners explicitly stated by Ohio statute. Generally, the funds are relegated to covering administrative, maintenance, and voter awareness costs. The amount that may be contributed by an organization or corporation into the special funds is capped at \$10,000 in a calendar year. Strict disclosure rules apply, mandating posting within a matter of hours on the Secretary of State's website required information concerning the contribution.

#### **2. Legal Changes if the Ballot Issue Passes and Rationales**

- Creates as a matter of Ohio constitutional law financial limits (monetary and in-kind) on political contributions to all state elected officials (State House and Senate, Governor and other elected Executives), political parties (county, State, National), PACs and other political entities. Issue 3 restores more limited contribution requirements and allegedly reduces the influence of big money in

government. Under this amendment, individual contributions will be limited to \$2,000 per election for statewide candidates and \$1,000 per election for state legislative candidates. The ban on corporate contributions to political parties will be restored.

- Bars corporate and unincorporated business entity campaign contributions, and includes other rules such as restricting out of State campaign contributions and children=s contributions; bars candidates and officeholders from soliciting contributions for or against a ballot issue.
- Elaborates stiff disclosure rules for contributions (similar to the new Ohio statutory provisions).

### **3. PRO -- Reasons to Support**

**Cleaning up Ohio Elections** Reducing the amount of money in politics can only help in generating quality policy decisions for all. Rather than limiting the influence of big money, the General Assembly made the problem worse last year by raising individual contribution limits from \$2,500 to \$10,000. The legislature also lifted a ban on corporate contributions to political parties.

**Evens Out the Differences between Average Citizens and the Monied** The current influence of big money contributors in state government has corrupted government. Ohio’s sky high contribution limits only widen the gap between the “haves” and the “have nots,” making it increasingly difficult for average citizens to compete in the public arena. Government stops listening to the average citizen and only hears the big money contributor. Big money allows special interests to shape policy and exercise greater influence over legislators than the voters who elect them.

**Appearance of Undue Influence** The reductions on contributions would curtail the amount of money that could be given, which could serve to combat allegations of improper influence on political candidates. Lowering the contribution ceiling could encourage candidates to seek smaller contributions from the public rather than seeking large contributions from a select few.

**Elimination of Loopholes** The restriction against minors making contributions, absent a showing that the donation was made from funds that the minor has the right to control, and the restriction against making a donation in someone else’s name ensures that the system cannot be circumvented by allowing an individual donate more than allowed by making donations in the names of others.

**Broad Disclosure** Constitutionalizing disclosure requirements will ensure that voters and the public at large have an accurate picture of who is funding each candidate and curb special interests by ensuring that campaign contributions are a matter of public record; a later Legislature that wants to roll in the money can’t change the Constitution on its own.

### **4. CON -- Reasons to Reject**

**Costly and Counterproductive Regulatory Burdens** Implementation of this amendment could cause the same types of problems in administration on the State level that the federal level already has.

**Contains a Basic Error in Drafting Constitutional Provisions** Constitutionalizing exact amounts of money in any context means that they cannot be modified even with inflation and increases in the cost of living/expenses except by passing another constitutional amendment. The amendment does not contain a method for indexing.

**Creates Unequal Partisan Restrictions** This proposal would eliminate traditional sources of in-kind

business contributions B creation of phone banks at stock brokerages and calling centers B while not restricting unions and other traditional Democratic donors, which could be viewed as partisan.

**Unlikely Constitutionality** Will be tied up in litigation.

**Unfair advantages to wealthy candidates** The proposed amendment would give an unfair advantage to wealthy candidates because they would be permitted to use unlimited amounts of personal money in their campaigns. However, unlike Ohio's current law, the proposed amendment would not permit an individual running against a wealthy opponent to raise additional campaign dollars to make the election fair and competitive.

## Issue 4:

### **Creating an Independent Redistricting Commission**

Issue 4 proposes to amend the Ohio Constitution to combat perceived problems with the current legal framework in which apportionment and redistricting are achieved. Those perceived problems include:

- Reduced competition in elections, resulting from politicians drawing legislative districts to pack as many voters from one major political party as possible into a given district, or by splitting up voters who share a common interest. (In the 2004 election, 80% of all contested Ohio state House of Representatives seats were won by a margin greater than 10%.)
- The system creates “safe seats” for incumbents for incumbents that virtually guarantee their victory, ensuring that voters have no real choice in who will represent them. (In the 2004 election, only 5 of 99 seats in the Ohio state House of Representatives changed Representatives, while none of the 18 Ohio U.S. congressional Districts changed.)
- “Safe seats” are leading to a political environment in which decisions are made by legislators behind closed doors, with input coming from contributors and not from the citizens in those districts.

#### **1. Current Law/Procedures**

**Redistricting Generally** Certain elected officials in Ohio (see below) currently bear the responsibility for drawing legislative districts. (Redistricting occurs every ten years following the federally required Census and the federal reapportionment of congressional seats.) Redistricting is normally required for both State and Federal legislative districts in order to respond to shifts in population and maintain a rough equality in the number of persons in each representative’s district.

**General Assembly** Per the Ohio Constitution (Article XI, Section 1), a decennial apportionment of the Ohio legislature is carried out by a 5 member State Apportionment Board, every tenth year after 1971, for the 99 House of Representatives districts and 33 Senate districts. The Board includes the:

- Governor
- Auditor of State
- Secretary of State
- 1 person chosen by the Speaker of the Ohio House of Representatives and the Senate leader, of the Speaker’s political party
- 1 person chosen by the speaker of the Ohio House of Representatives and the Senate leader, of the major political party of which the Speaker is not a member

**Congress** Following the federal census report, a decennial apportionment of Ohio for U.S. congressional seats is carried out by act of the State Legislature and signed by the governor, as codified in Ohio Revised Code §3521.01. The legislature’s freedom to craft such districts is limited by:

- The Constitution of the United States, Article I, Section 2, Clause 3, “Representatives...shall be apportioned among the several states...according to their respective [populations]...the enumeration...made...within every subsequent Term of ten Years...”
- The Constitution of the United States, Article I, Section 4, Clause 1, “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each

State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.”

- Relevant federal statutory law, including 2 U.S.C. §2, which provides existing decennial census figures as a basis for the reapportionment of representatives, the number of representatives from each state, the number of congressional Districts in each state, and the number of Representatives from each District.
- Relevant Supreme Court decisions, such as *Reynolds v. Sims* 84 S.Ct. 1362 (1964), which established “one person, one vote” guidelines to combat vote dilution.

## **2. Legal Changes if the Ballot Issue Passes and Rationales**

The primary change would be that currently elected officials, party operatives and recent candidates could no longer exercise any power over the drawing of legislative districts—State or federal. Any person could submit a proposed redistricting plan. The chief criterion for selection of a plan would be its creation of “competitive districts.” Generating “safe” districts to protect one political party’s power at the State or Federal legislative levels — a persistent practice of both major political parties whenever in power – would be largely beyond reach. The redistricting power would be held by a newly created Independent Redistricting Commission (IRC).

### ***Additionally:***

- Removes from the Ohio legislature the power to draw congressional districts, and restructures the entire redistricting process for the Ohio General Assembly while maintaining the same number of seats in each house, with a Senate district composed of 3 House districts.
- Allocates the redistricting power to a new Ohio Independent Redistricting Commission (IRC) composed of 5 members. The first two members are selected by the two most senior judges on state Courts of Appeals of differing political parties. These members then select the remaining three members from citizen applications. Imposes restrictions on members= partisan political affiliations, roles and activities.
- Mandates to the IRC include the favoring of a *competitive* election districts determined by mathematical formulae. Permits pairing of uncompetitive districts, thus arguably allowing the political parties to have a balance of safe seats.
- Invites the public at large to submit redistricting plans that IRC is to evaluate by the constitutionally prescribed criteria, with those receiving the highest a *competitive* quotient (by formulae) to be finalists for further evaluation. Secondary criteria then come into play, including not fragmenting counties and municipalities. If one plan is not able to be selected, the process can begin again, followed by the IRC designing its own plan only if the first two efforts fail.
- Permits but does not encourage the IRC to refigure a finalist plan “to preserve communities of interest based on geography, economics, or race” and also permits the IRC to reconfigure the plan so long as the *competitiveness* quotient does not drop below the specified level.
- Prohibits the Ohio Supreme Court from being involved in redrawing any plan; can only compel the IRC to perform its duties.

### **3. PRO -- Reasons to Support**

**Partisan Influence:** The amendment seeks to minimize partisan and candidate influence in the process of redistricting Ohio.

**Competitive Districts** The amendment will create competitive districts where they formerly did not exist. May assist in infusing new ideas, as opposed to rubber-stamping existing approaches.

**Limits most judicial involvement** The Ohio Supreme Court is assigned only a narrow role.

### **4. CON -- Reasons to Reject**

**Is “competitiveness” the best criterion?** The amendment may divide communities that share common interests. It is preferable to have a District where the vast majority of constituents are represented by the candidate they desire rather than a district where nearly half of the constituents voted for the losing candidate.

**Partisan Influence** Will still occur.

**Conflicts with Governing Federal Law?** Would the Supreme Court be willing to view “competitiveness” as the primary criterion for Plans consistent with its pre-existing criteria for the constitutionality of redistricting plans?

## Issue 5

### **Transfer of State Power over Elections from the Secretary of State to New State Board of Elections**

#### **1. Current Law/Procedures**

Ohio's Secretary of State oversees the election process in each of Ohio's 88 counties and has certain powers to prescribe rules to govern elections. The Secretary of State's broad powers include supervising county boards of elections, providing training for local professional election officials, implementing federal election law in the State, advising the county Boards of judicial and other legal changes that need to be implemented locally, investigating alleged violations of State election law, and advising on other election reform issues. The Secretary of State's power to issue mandatory rules on County Boards of Election governing the selection of voting machines, the per capita allocation of those machines, the training of poll workers, and other issues remains a continuing controversy.

#### **2. Legal Changes if the Ballot Issue Passes**

The amendment apparently would eliminate the Secretary of State's duty to administer elections and his Ballot Board duties. These duties would be placed in a newly created nine member State Board of Elections.

**Selection** The members of the Board would be appointed as follows: four by the governor, four by the members of the general assembly affiliated with the political party that is not the same as that of the governor, and one by a unanimous vote of the chief justice and justices of the Ohio Supreme Court. The member appointed by the Supreme Court may not be affiliated with a political party. The governor and members of the general assembly must appoint equal numbers of men and women and take into consideration the geographic regions and racial diversity of the state. Members would serve staggered nine-year terms. Stiff ethics rules include: Members may not hold any elective or other appointive public office, be a candidate for public office, hold a position with a political party, or be a registered lobbyist, and would be prohibited from making or soliciting political contributions and being involved in a candidate or ballot issue campaign.

**Powers** The State Board of Elections shall prescribe uniform procedures to be followed by the county boards of elections, appoint and remove members of the county boards, certify petitions for statewide office and ballot issues, certify all vote counting equipment, approve ballot language and maintain a statewide voter registration file. The Board would hire a State Director of Elections to do the administrative day-to-day work of supervising elections. County boards of election would continue to function much as currently.

#### **3. PRO -- Reasons to Support**

**Will Facilitate Equality in Voting Rights** Currently, vast differences exist between counties in how votes are counted, in the allocation of voting machines, in the choices of voting equipment, in the protection of disabled and elderly voters voting participation, and other issues. The State Board will be better able to attend to these issues statewide than a Secretary of State whose focus is divided between many duties having nothing to do with elections.

**More Comprehensive Concern** A 9 member Board should do a better job of attending to the entire State's needs than one Secretary of State.

**Equality and Fairness for Both Major Parties** Because Republicans and Democrats will be equal in number, the commission will be more fair and non-partisan than one Secretary of State.

**Based on a Model that Works** The commission will essentially replicate the County Board of Elections model. Since a bipartisan system is used for all of our 88 counties, it should be good enough for Ohio as a whole.

**Introduces a Nonpartisan Umpire** The ninth member of the Board would act as a nonpartisan umpire to facilitate protection of independent and third party voters.

#### **4. CON -- Reasons to Reject**

**Does Not Assist Fairness to Third Parties** Would remove accountability and empower an appointed board that does not answer directly to the voters; generates uncertainty about any remaining power of the Secretary of State over elections.

**End local Board control over elections?** The amendment would effectively end the local control over Ohio elections that is currently exercised by our bipartisan county elections boards. Oversight of the management of elections would be put in the hands of politically appointed bureaucrats.

**Costly** The amendment does not explain why it is necessary to give the appointed commission the power to spend unlimited amounts of tax dollars.

**Questionable efficiency** Sometimes elections decisions have to be made on an expedited basis and this amendment may generate an unwieldy administrative structure. Nine members is too big for quality decisionmaking.

**Accountability to Voters** Removes from direct voter determination (through election of the Secretary of State) the choice of who will run the State=s elections apparatus.

## Concluding Arguments

### *In Favor*

A vote in favor of these election reform Ballot Issues is a vote to *clean up Ohio politics*.

**Vote YES** to send a loud and clear message that we are tired of the corruption, that we refuse to let our public policy be written by those who can pay the most to political candidates. Ohio and its people deserve better than having their government go to the highest bidder.

**Vote YES** to say we are fed up with corrupt politicians creating legislative districts that will benefit themselves and not Ohio's citizens, districts that are so "safe" that legislators are not truly accountable to Ohio voters.

**Vote YES** to restore Ohio's tradition of quality, ethical government.

**Vote YES** to send a message to all Ohio politicians and would-be politicians: govern for the best interests of Ohio as a whole — not for special interests or narrow partisanship. Don't let quibbles over small matters distract us from the larger goals to

### **RESTORE CONFIDENCE and END CORRUPTION**

VOTE **YES** on Issues 2-5

### *Against*

Ohioans must **Vote No** on Issues 2, 3, 4 and 5 on the November 8 ballot to protect their voting strength.

-- Out-of-state interests are **launching a power grab** of Ohio's election system by duping Ohio voters into changing the Ohio Constitution. The proposed Issues 2, 3, 4 and 5 are a package of complex constitutional amendments that would remove the Ohio elections process from the control of voters and their elected officials and into the hands of East and West Coast special interests.

-- Out-of-state special interest groups gave more than 92 percent of the \$1.2 million spent to place these issues on the November ballot. They paid non-Ohio residents to circulate the petitions, and questions were raised about arguably deceptive tactics used to obtain signatures.

-- The *OhioFirst* Education Fund is getting out the message that Ohioans must Vote No on Issues 2, 3, 4 and 5. These four issues would place massive new election powers in the hands of faceless bureaucracies and take those powers from well-known elected officials who are now accountable to Ohio voters at the ballot boxes.

***You must act NOW to stop the power grab.*** Under the current Ohio Constitution and laws, voters can vote in or out of office their elected officials responsible now for drawing districts and running elections. Voters would lose that right under these four complex new amendments, being pushed by out-of-state interests for their own purposes.

Read the fine print on the ballot issues! **Vote NO.**

# Speakers and Participating Organizations

## October 11, 2005

### CENTER FOR ELECTION INTEGRITY

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Associate Professor of Law  
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**Assistant Director, CEI**  
Program Manager, Ruth Ratner Miller Center for Greater Cleveland's Future  
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Cleveland State University  
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### Reform Ohio Now -- Associated Organizations and Speakers

**Ms. Scarlett Boudier**  
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**Mr. Sam Gresham**  
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Director of Outreach for Fair Elections  
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**Ms. Catherine Turcer**  
Ohio Citizen Action  
614 W. Superior Avenue, Suite 1200  
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## **Ohio First Education Fund Speakers**

### **The Honorable Tim Grendell**

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Republican, 18<sup>th</sup> District  
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SD18@mailr.sen.state.oh.us

### **The Honorable Jim Trakas**

Ohio House of Representatives  
Republican, 17<sup>th</sup> District  
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### **Mr. Keith Lake**

Ohio Chamber of Commerce  
230 East Town Street  
PO Box 15159  
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**David Hopcraft 614- 443 - 2538**

## **Ohio Democratic Party**

### **The Honorable Marc Dann**

Ohio Senate  
Democrat, 32<sup>nd</sup> District  
Senate Building  
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## **Election Administration Official**

Mr. Michael Vu  
Director, Cuyahoga County Board of Elections  
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Cleveland, Ohio 44093  
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## **Civic Organizations Working on Election Reform Issues**

### ***League of Women Voters of Ohio***

Ms. Peg Rosenfield  
Elections Specialist  
League of Women Voters of Ohio,  
17 High South Street, Suite 650  
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**877-598-6464**  
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### ***Greater Cleveland Voter Coalition***

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Cleveland, Ohio 44155  
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## Appendix

### Secretary of State's Official Website Postings Concerning the Ballot Initiatives

#### **2005 General Election: November 8**

In the 2005 General Election, Ohio voters will elect:

- Mayors
- Members of city and village councils
- Members of boards of trustees of public affairs (in some villages)
- Other city and village officers
- Judges of municipal courts (some jurisdictions)
- Clerks of municipal courts (some jurisdictions)
- Township trustees and clerks
- Members of boards of education
- Members of educational service center governing boards
- Unexpired terms for municipal and township offices and boards of education

Five statewide issues are also on the November 8 ballot.

**Editor's Note:** For each Issue, the Secretary's office provides the officially approved summary of the initiative and then posts a Pro statement (from RON) and a Con statement (author unstated)Ballot. To access this official information, see

<http://www.sos.state.oh.us/sos/ElectionsVoter/CurrentElection.aspx>