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Analysis: Unpacking Ohio's flawed "supermajority" proposal for ballot initiatives

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Ohio Secretary of State Frank LaRose and State Representative Brian Stewart recently introduced a proposal that asks Ohio voters to limit their own power to amend the state's constitution. The proposal would impose a supermajority threshold for passing amendments by ballot initiative– requiring at least 60% support from the state's voters, instead of the simple majority required under current law. Ironically, this proposal could become part of the state's constitution even if it does not itself receive the supermajority support from Ohio voters that it would require for future amendments.

The proposal was unveiled during a busy lame-duck session of the Republican-controlled General Assembly that has also seen last-minute bills to rewrite the state's election laws, including imposing a strict photo ID requirement for voting, and to strip the state board of education of most of its powers. (The latter proposal emerged just days after Democratic-backed candidates won a majority of elected seats on the board.)

Secretary LaRose and Rep. Stewart have argued that a supermajority requirement is needed to protect against unnamed "special interests" who have supposedly "hijacked" the Ohio Constitution through the initiative process. An array of experts, advocates, and state officials have questioned these claims and cast the proposal as a "power grab." Pointing to recently announced efforts to amend the Ohio Constitution to raise the minimum wage, protect access to abortion, and improve the state's troubled redistricting process–policies that have earned voter approval in other states– some have argued that the supermajority proposal aims to block these efforts.

This analysis examines the proposed supermajority requirement and the various claims and arguments made for and against it. Although ballot initiatives are not a panacea, and there is undoubtedly room for thoughtful reforms to improve how they function, this particular proposal lacks strong justifications and seems designed to weaken direct democracy as a check on Ohio's elected officials.

Key Findings

- **The proposal would make it unusually difficult for Ohioans to exercise the initiative compared to other direct democracy states.** Ohio already has some of the nation's most challenging ballot access requirements for initiatives, and the state would be even more of an outlier with the addition of a 60% supermajority requirement.
- **The rationale given for making it unusually difficult for Ohioans to exercise the initiative does not hold up.** Ohioans have sparingly used the initiative process to amend the Ohio Constitution, and they already adopted a powerful safeguard against special interests in the form of an "anti-monopoly" provision.
- **The proposal's sponsors want to submit it for voter approval at an odd-year primary election when turnout will be at its lowest.** Given that a stated rationale for the proposal is to ensure that constitutional amendments have broad public support, a low-turnout, off-cycle election is a particularly inopportune time to present the measure to Ohio voters.
- **The extra cost to hold an unexpected statewide election during an odd-year primary could be significant.** Most communities would have few, if any, races to vote on at an odd- year primary election. The submission of a statewide ballot question at such an election would likely come with significant additional costs; for example, Ohio's August 2022 primary election for legislative races cost an estimated $25-30 million.
- **In its current form, Ohio's initiated statute process does not serve as a suitable alternative to initiated amendments.** Citizens currently lack assurances that the General Assembly would not simply repeal an initiated statute, and the process can take significantly longer than an initiated amendment.

Background on Ohio's Initiative Power

Since 1912, Ohioans have enjoyed the constitutional right to engage in direct self-rule through the initiative and referendum. Broadly speaking, initiatives and referenda allow Ohioans to propose laws or constitutional amendments directly to their fellow citizens and to submit laws passed by the state legislature to the people for approval or rejection by simple majority vote. Before 1912, amendments to the Ohio Constitution could be proposed only by the General Assembly or a constitutional convention.

Shortly after the initiative and referendum powers were added to the Ohio Constitution, the Ohio Supreme Court celebrated their importance, describing the "I. & R." as "one of the most essential safeguards to representative government."[1] The Court explained that its greatest value is not in the ability it gives Ohioans to propose good (or sometimes bad) ideas, but in the

"wholesome restraint imposed automatically upon the General Assembly and the Governor and the possibilities of that latent power when called into action by the voters."[2] In other words, the initiative is fundamentally about keeping politicians in check and giving citizens a safety valve. If elected officials fail to implement policies that enjoy popular support, then the people can use the initiative to propose those policies directly to their fellow citizens.

Ohioans have approved only a small number of initiated amendments since 1912—either 19 or 20 have been approved, depending on the source.[3] Those that have been approved reflect the push- and-pull nature of democracy. For example, Ohio voters approved their first ever initiated amendment in 1914, a few years before the national prohibition era. It banned any statewide prohibition of alcohol sales and established local control of the same. That amendment did not last long. It was replaced four years later by the third ever initiated amendment—a statewide ban on alcohol sales. (A few months later, the Eighteenth Amendment to the U.S. Constitution was ratified, prohibiting alcohol sales nationwide.)

Beyond these dueling prohibition measures, the initiative has been used to enshrine a variety of other policies from across the political spectrum. There have been initiated taxation limits, including a ban on food taxes, a limit on the amount of property taxes that can be imposed without voter approval, and a requirement that revenues from fuel taxes and vehicle registration fees actually be used on roadway improvements. On governance issues, Ohioans have used the initiative to impose term limits on elected officials, establish voter registration requirements, and allow counties to exercise home rule powers. The initiative has also been used to ban same-sex marriages (later declared unconstitutional by the U.S. Supreme Court), increase the state's minimum wage, permit gambling at casinos, establish a right to health care services (touted as a repudiation of "Obamacare" but also more recently cited as the source of a constitutional right to abortion access), and establish certain rights for crime victims.

True to the Ohio Supreme Court's early prediction, the mere prospect of citizens taking matters into their own hands has also repeatedly prompted lawmakers to enact policies that had otherwise been stalled. Recent examples of this include actions to reform the redistricting process, legalize medical marijuana, regulate "puppy mills," and crack down on payday lending (among many others).

Overview of the Proposed Supermajority Requirement

With one important exception, proposed amendments to the Ohio Constitution require a simple majority vote by the people of Ohio for passage.[4] This has been the rule since the initiative power was added to the Ohio Constitution in 1912, and it is the case regardless of whether the amendment is proposed by initiative petition or by the General Assembly.

The change proposed by Secretary LaRose and Rep. Stewart would require initiated amendments (as well as legislatively-referred amendments) to receive a 60% "supermajority" vote for passage.[5]

For context, eight of the initiated amendments approved by Ohio voters since 1912 garnered less than 60% approval. These include the aforementioned alcohol prohibition measures, the limit on the amount of property taxes that local governments can impose without voter approval, home rule powers for counties, the minimum wage increase, and the amendment that allowed gambling in casinos.

Secretary LaRose and Rep. Stewart have offered a few related reasons in support of their proposal. They contend that the "ease" of the initiative process has led to a "bloated" state constitution and that "special interests" have "hijacked" the constitution. They also contend, as a general point, that initiated constitutional amendments should require broader public support for passage.

The sponsors have also stated that they hope the General Assembly will approve the measure during the current lame duck session and submit it to the voters at the May 2, 2023 primary election. If submitted to the voters, the proposal would require only a simple majority vote for passage despite imposing a supermajority requirement on future initiated amendments. As critics have pointed out, the timing of the supermajority proposal suggests that its proponents are aiming to thwart the imminent initiative campaigns to increase the minimum wage, protect abortion access, and reform the state's gerrymandering process.

Analysis of the Proposed Supermajority Requirement

There is no question that the supermajority requirement would make it harder for the public to exercise the initiative power—that is the point. But the proposal would make it *unusually* difficult for Ohioans to exercise the initiative compared to other direct democracy states. Ohio already has some of the country's most challenging ballot access requirements for initiatives. And the addition of a heightened threshold for passage—an anomaly among direct democracy states—would cement Ohio's initiative right as one of the most difficult in the nation for citizens to exercise.

Further, the reasons given for making the initiative unusually difficult do not withstand scrutiny. Secretary LaRose and Rep. Stewart describe the Ohio Constitution as having been "hijacked" through the initiative process, but relatively few initiated proposals make the ballot and even fewer are approved by the voters. Moreover, the Ohio Constitution *already* contains a powerful safeguard against anyone who might attempt to use the initiative process for financial gain.

It is also questionable that Secretary LaRose and Rep. Stewart want the General Assembly to submit their proposal to the voters at an odd-year primary election when voter turnout is

historically at its lowest. For all their talk about constitutional amendments needing broad support from the public, only a small fraction of Ohioans will likely vote on their proposal under their preferred timeline.

This analysis concludes by considering the initiated statute process as a possible alternative for citizens if the threshold for enacting constitutional amendments is raised. Although there is some surface appeal to the idea, this other initiative process suffers from flaws that, unless fixed, make it a less viable solution for citizens to propose policies.

The proposal would make Ohio's initiative power unusually difficult to exercise.

It is already difficult for Ohioans to amend the Ohio Constitution through the initiative, and the addition of a 60% supermajority rule for passage—a requirement not found in most direct democracy states—would leave Ohio with one the nation's most restrictive initiative systems.

1. The Ohio Constitution is already immensely difficult to amend through the initiative

Currently, few efforts to amend the constitution even make the ballot in light of several procedural hurdles.

The first stage of the initiative process is the initiative petition itself. An initiative petition bears little resemblance to petitions found online in places like Change.org; it must be signed in person by a registered Ohio voter, and the process is heavily regulated with civil and criminal penalties for fraud.

Ohio has some of the most demanding signature requirements in the nation. For a constitutional amendment, petitioners need a *minimum* number of signatures equal to at least 10% of the votes cast for governor statewide. This figure was most recently about 442,958 signatures—the third highest raw total in the nation—though it will drop somewhat with this year's decreased voter turnout. Also, because a significant number of signatures are inevitably found invalid, petitioners often need to collect 50% more signatures than the minimum to assure that they ultimately clear the required threshold. In other words, petitioners likely need to collect a minimum of 600,000- 700,000 signatures. (For comparison, it takes only 500 signatures to run for statewide office in Ohio and just 50 signatures to run for the General Assembly.)

In addition to this high overall statewide requirement, petitioners *also* need signatures from 44 of Ohio's 88 counties equal to at least 5% of the votes cast for governor in those counties. This means that petitioners cannot gather all their signatures from Ohio's densely populated cities but instead must collect from the sparsely populated areas, too. While some states have a

higher overall requirement and some states have more challenging geographic distribution requirement, few states have a more challenging combination of the two.

There are many other rules that petitioners must follow or risk having to start over. These include a single-subject rule, font size requirements, preregistration requirements for certain organizers with steep penalties for violations, and the need to obtain various approvals from state officials who sometimes misuse their authority to derail initiative efforts.

The difficulty of Ohio's initiative process is borne out by the low success rate of petition campaigns. In the past 15 years, more than 60 campaigns have launched efforts to amend the Ohio Constitution through the initiative process. Of those, only seven made it through the signature gathering phase and qualified for placement on the ballot. And of those that managed to make it to the ballot, only three were approved by the voters.

Secretary LaRose acknowledged that most efforts to amend the Ohio Constitution through the initiative process have been unsuccessful. But he cited this low success rate as a reason to make the initiative process even more difficult. This peculiar logic led one legal expert to describe the proposal as a "solution in search of a problem."

2. *Ohio would be an outlier among direct democracy states in requiring 60% supermajority for passage of initiated amendments.*

Secretary LaRose suggested that supermajority requirements for initiated amendments like his proposal are common, but only three of the 18 states with a constitutional initiative process have comparable requirements: Colorado requires an initiated amendment to receive 55% voter approval for passage;[6] Florida requires 60% voter approval;[7] and Illinois requires 60% approval for the measure or a majority of those voting in the election (not just on the measure itself).[8]

Notably, voters in Arkansas just rejected a proposal to impose a 60% supermajority requirement for initiated amendments, and in 2018, South Dakotans rejected a similar proposal to impose a 55% supermajority requirement.

A few additional states impose other special voting rules, but none is quite like what Secretary LaRose and Rep. Stewart have proposed. In Nebraska, for instance, a proposed amendment can be passed by majority vote, but the total number of votes cast on the proposal must equal at least 35% of the total votes cast in the election.[9] Massachusetts and Mississippi have similar requirements.[10]

In Nevada, initiated amendments must receive a majority vote *at two successive general elections* in order to pass.[11]

Secretary LaRose identified Washington and Wyoming as states with supermajority

requirements for "petition-based constitutional amendments," but, in fact, neither state provides for constitutional amendments through an initiative process.

The Secretary also claimed that Oregon has a supermajority requirement, but this is a questionable characterization. Oregon has a limited supermajority requirement that actually serves as a safeguard against efforts to impose supermajority requirements on future initiatives: Any ballot measure that would impose a supermajority requirement for passage of future ballot measures must itself receive at least the same percentage of voter approval as specified in the proposed supermajority requirement.[12] For example, a ballot measure that would require future ballot measures to receive a 60% supermajority approval for passage would need to be approved by at least 60% of voters. This contrasts with Secretary LaRose's proposal, which would require only a simple majority vote to impose the proposed supermajority requirement.

In short, the supermajority proposal would make Ohio an outlier among direct democracy states in requiring a 60% supermajority for passage of any initiated constitutional amendment. Combined with the state's already challenging signature requirement, this change would leave Ohio's initiative power as one of the most difficult to exercise in the nation.

The reasons given for making it unusually difficult for Ohioans to exercise the initiative do not add up.

The sponsors of the supermajority proposal contend that the Ohio Constitution should be more difficult to amend because the supposed "ease" of the current process has allowed it to be "hijacked" by "special interests." This rationale does not hold up.

1. Ohioans have sparingly used the initiative to amend the Ohio Constitution.

Despite the suggestion that the Ohio Constitution is full of amendments adopted through the initiative process, the truth is that the initiative process has been sparingly used by Ohioans to amend the state constitution, due in large part to the substantial hurdles described above.

Since 1912, the Ohio Constitution has been amended (approximately[13]) 128 times. Of those, only 20 (or about 16%) were initiated amendments. The remaining 108 (or about 84%) were referred by the General Assembly. For initiated amendments, this is an approval rate of one every 5.5 years; for legislatively referred amendments, the approval rate is almost one every year.

Moreover, proposals to amend the Ohio Constitution have come from the General Assembly far more often than they have come from the initiative process. Since 1912, the General Assembly has referred 159 proposed amendments to the voters, compared to 76 proposed by initiative petition.

These figures also indicate that Ohioans have approved a smaller percentage of amendments proposed by initiative petition than amendments proposed by the General Assembly. Amendments proposed by initiative petition have a passage rate of about 26%, while amendments referred by the General Assembly have a passage rate of about 68%.

This history indicates that if "bloat" is truly the concern, then the primary source of the problem is the General Assembly, not the people.

2. *The Ohio Constitution already contains a powerful safeguard against special interests.*

Further calling into question the need for the proposal is the fact that the Ohio Constitution already contains a powerful safeguard against special interests that might seek to abuse the initiative process.

Although initiated amendments rarely make the ballot in Ohio, two that did have been heavily criticized ever since. One was a 2009 proposal *approved* by the voters that legalized gambling in casinos with the catch that the casinos had to be constructed at predetermined sites in Cincinnati, Cleveland, Columbus, and Toledo. The other was a 2015 effort *rejected* by the voters to legalize marijuana with the catch that the licenses to produce the marijuana would go to preselected entities—this was dubbed the marijuana "monopoly" amendment. The supermajority proposal's sponsors have alluded to the specter of similar "self-dealing" initiatives to justify their proposal.

But when Ohio voters rejected the marijuana "monopoly" amendment in 2015, they also approved Issue 2—dubbed the "*anti*-monopoly amendment." This amendment created impediments for any constitutional amendment proposed by initiative petition that would grant unique financial benefits or commercial interests to a select few.

Under the "anti-monopoly amendment," a proposed initiated amendment that would establish a particular tax rate or confer some sort of unique commercial interest, right, or license must be presented to voters with two separate ballot questions.[14] One question simply asks voters if they want to approve the proposal. The other question, however, requires voters to confirm that they want to approve an amendment that is both "in violation" of the Ohio Constitution and 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?" In effect, this second question asks voters "are you really sure you want to approve this no-good, rotten idea?" If a majority of voters say no to *either* question, then the proposal fails.

No self-dealing proposal has made the ballot since the anti-monopoly amendment was approved. This could be an indication of the amendment's success in scaring away similar

proposals, though it may also reflect in part how difficult it is to amend the state constitution to begin with. Either way, this amendment demonstrates that Ohioans have already safeguarded the state constitution from "special interests" that might attempt to use the initiative process to further their financial gain—and they did so in a tailored manner that does not encumber their core constitutional right of initiative.

The proposal's sponsors tellingly want to submit it to the voters at an odd-year primary election when voter turnout is historically at its lowest.

Secretary LaRose and Rep. Stewart seek to have the General Assembly submit their proposal to the voters for approval at the May 2, 2023 primary election—an odd-year primary election date when voter turnout is historically at its lowest. Such gamesmanship departs from Ohio's usual practice and is at odds with the sponsors' professed concern with assuring that constitutional amendments have broad public support.

Historically, the General Assembly has almost entirely avoided submitting referred constitutional amendments to the voters at odd-year primary elections when little else is on the ballot. Since 1912, the General Assembly has submitted referred amendments to the voters at only two odd- year primary elections: May 4, 1965 and May 8, 1973. (Initiated amendments are never on the ballot in such elections; by law, they may be submitted only at general elections.)

It seems unlikely that it is a mere coincidence that the General Assembly has so rarely submitted referred amendments at odd-year primary elections. Legislators have presumably avoided submitting referred amendments at odd-year primary elections because they recognize that such elections tend to have low turnout, and those who participate may not be representative of the broader electorate. The Ohio Secretary of State's office does not make statewide voter turnout data for odd-year primary elections on its website. But for an analogous comparison, Ohio's special primary election for legislative races in August 2022 that had little else on the ballot in most jurisdictions saw just under 8% voter turnout compared to the still-unofficial turnout of 51.1% at the November 2022 general election and the 73.99% turnout at the November 2020 general election.

Another reason why the General Assembly has historically avoided submitting proposed constitutional amendments at odd-year primary elections might be the sheer cost to do so. Relatively few races appear on the ballot for odd-year primary elections—these ballots typically contain a small number of contested primary elections for municipal offices and a few local ballot measures, like tax levies. Many communities end up with nothing at all to vote on during these elections, in which case they do not even conduct a primary election. But the submission of a statewide ballot measure at an odd-year primary election would require an election to be conducted in *every* jurisdiction in the state, even those with nothing else on the ballot. And with

an unexpected election comes unexpected costs that are paid for by the taxpayers; for reference, Secretary LaRose reportedly said that the cost to hold Ohio's similarly unexpected August 2022 primary election for legislative races cost taxpayers an extra $25-30 million. Holding a statewide election in May 2023 might result in similar extra costs.

The initiated statute is a less viable alternative, for now.

Perhaps in response to these criticisms, Secretary LaRose suggested that Ohioans use the initiated statute process instead of the initiated amendment process to enact their preferred policies. Ohio law does permit citizens to submit proposed laws first to the General Assembly for consideration and then to the voters for approval.

On the surface, there is some appeal to this initiated statute option. For one, the process requires 40% fewer signatures to initiate a statute than to initiate a constitutional amendment. In theory, it also should be easier to make needed changes or improvements to an initiated statute than to an initiated amendment since a statute can be revised through legislative action, while altering an amendment requires a statewide vote. But the initiated statute process suffers from at least two major flaws that limit its usefulness as an alternative to the initiated amendment.

1. There is a risk that the General Assembly would simply repeal an initiated statute.

One problem with initiated statutes is the risk that the General Assembly would simply seek to amend or repeal them. It is not difficult to imagine scenarios where the General Assembly would choose to disregard the results of a voter-approved initiative, particularly one that seeks to constrain the General Assembly's own authority. This is arguably what happened with Ohio's latest redistricting cycle.

It is unclear whether the Ohio Constitution would allow such meddling with initiated statutes. Unlike some other state constitutions,[15] Ohio's does not explicitly address whether or how the General Assembly may alter a voter-approved initiated statute. Applying similarly worded state constitutions, courts in Washington, Missouri, Maine, Massachusetts, and Michigan have all rejected attempts by their legislatures to undermine the initiative process.[16] It is possible that a court in Ohio would do the same, but the prospect of legislative interference plainly reduces the attractiveness of initiated statutes relative to initiated amendments.

2. It can take significantly longer to propose an initiated statute to the voters.

Another problem with the initiated statute process is that it often takes significantly longer than the initiated amendment process. Citizens seeking to propose a statute might have to wait

through multiple election cycles. In contrast, an initiated amendment can more readily be placed on the next general election ballot.

An initiative petition proposing a constitutional amendment needs to be filed at least 125 days before the general election of the petitioners' choice, which typically means filing in early July.[17] If the petition has enough signatures and complies with all other requirements, then it is submitted at the ensuing general election, allowing voters to decide the issue within about four months from the petition's filing.

The process for an initiated statute is more complicated. It involves two separate petitions and potentially conflicting deadlines. The first petition serves to propose the law to the General Assembly for its consideration; this petition must be filed at least ten days before the commencement of any annual session of the General Assembly—a deadline that typically falls in late-December. The General Assembly then has four months to consider the proposal. If the General Assembly does not take any action on the proposal within the four-month period, which would typically expire in early May, or if they approve it in an amended form, the petitioners can then circulate a second ("supplementary") petition to demand that the proposal be submitted to the voters.

There are two important deadlines for this supplementary petition. First, petitioners have 90 days from the expiration of the General Assembly's four-month consideration period to circulate and submit it. If the four-month period ends in early May, then the petitioners' 90-day window would run into early August. Second, like a petition for an initiated amendment, the supplementary petition needs to be filed at least 125 days before the general election at which it will be submitted, which, again, typically falls in early July.

The result of these two deadlines is that if petitioners want to submit their proposed statute to the voters during the same year it was considered by the General Assembly, then they have to cut short their already limited window to circulate the supplementary petition by about 30 days. Otherwise, they will have to wait until the general election the following year—nearly *two years* after they submitted their original petition.[18]

Unless these two flaws in the initiated statute process are changed,[19] it is unlikely that the process could serve as a suitable alternative to the initiated amendment.

Conclusion

In sum, the proposed supermajority requirement would make it unusually difficult for Ohioans to amend their state constitution through the initiative process, and the reasons offered for the proposal do not hold up to scrutiny. The Ohio Constitution is already difficult to amend through the initiative, and very few initiative efforts have been successful. It is not apparent why the process should be made even harder. Further, the Ohio Constitution was recently amended to

limit the ability of special interests to use initiated amendments for financial gain. The proponents of the supermajority requirement have not explained why this existing safeguard is inadequate. Finally, the proposal's sponsors seek to place their measure on the ballot at an odd-year primary election when voter turnout is historically at its lowest. If constitutional amendments should have broad public support, why submit the proposal at a time when only a small fraction of the electorate is likely to participate?

Ultimately, the supermajority proposal seems to be driven mainly by a desire to prevent Ohio voters from adopting constitutional amendments that the proposal's sponsors oppose—part of a nationwide, multi-year trend to curtail direct democracy. If Ohio legislators have a real appetite to improve the state's initiative system, a better approach would be to fix the initiated statute process rather than create higher hurdles for initiated amendments.

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[1] *State ex rel. Nolan v. ClenDening*, 93 Ohio St. 264, 277 (1915).
[2] *Id.* at 277-78.
[3] It is not as straightforward as one would think to determine the precise number of proposed and approved amendments to the Ohio Constitution. Reports from the Ohio Secretary of State's office, the Cleveland State University College of Law, and the Ohio Constitutional Modernization Commission's Constitutional Revision and Updating Committee all have slightly different numbers. This analysis will rely upon the Secretary's data.
[4] *See* Ohio Constitution, Article II, Section 1b, 1e, 1g.
[5] A similar idea had been explored in the 2010s by a committee of the now-defunct Ohio Constitutional Modernization Commission. The committee had recommended a 55% supermajority requirement for initiated amendments along with several other proposed reforms of the initiative process, but the supermajority requirement proved to be the downfall of the package of recommendations. By the committee's own telling, the recommendations "encountered significant opposition" when presented to the full Commission "with concerns expressed primarily by those opposing the increase in the passing percentage for proposed initiated amendments." As a result, the full Commission tabled the recommendations and never returned to them.
[6] Colo. Const., art. V, § 1(4)(b).
[7] Fla. Const., art. XI, § 5(e).
[8] Ill. Const., art. XIV, § 3.
[9] Neb. Const., art. III-4.
[10] Mass. Const., art. XLVIII, pt. 4, § 5; Miss. Const., art. XV, § 273(7).
[11] Nev. Const., art. 19, § 4.
[12] Ore, Const., art. II, § 23.
[13] *See* n. 3.
[14] *See* Ohio Const., art. II, § 1e(B)(1)-(2).
[15] *See, e.g.,* Cal. Const., art. II, § 10(c) (requiring the legislature to submit any amendments to or attempts to repeal an initiated statute to the voters for approval); Nev. Const., art. XIX, § 1 (providing that an initiated statute cannot be "amended, annulled, repealed, set aside, suspended, or in any way made inoperative except by the direct vote of the people."); N.D. Const., art. III, § 8 (requiring a two-thirds vote from the legislature to change an initiated statute for seven years after its effective date).

[16] See *Eyman v Wyman*, 191 Wash. 2d 581 (2018); *Earth Island Inst. v Union Elec. Co.*, 456 S.W.3d 27 (Mo. 2015); *Farris ex rel. Dorsky v Goss*, 143 Me. 227 (1948); *Buckley v Sec'y of Commw*, 371 Mass. 195 (1976); *Mothering Justice v. Nessel*, MI Ct. Cl. No 21-000095-MM (July 19, 2022).

[17] Ohio Const., art. II, § 1a.

[18] This inconsistency was the result of a legislatively referred amendment approved by the voters in 2008 that moved the filing deadlines for initiated amendments and initiated statutes from the 90th day before the general election to the 125th day before the general election. See 127th Ohio General Assembly, Amended House Joint Resolution No. 3, available at http://archives.legislature.state.oh.us/res.cfm?ID=127_HJR_3. It is not clear that this result was intentional—the changed deadlines were touted as allowing more time to resolve legal challenges to petitions—but it was certainly an effect.

[19] Proposed solutions to these problems were included in the recommendations made by the committee of the Ohio Constitutional Modernization Commission.