July 18, 2011

VIA HAND DELIVERY

The Honorable Jon Husted  
Secretary of State of Ohio  
180 E. Broad Street, 15th floor  
Columbus, OH 43215

The Honorable Mike Dewine  
Ohio Attorney General  
30 East Broad Street, 17th Floor  
Columbus, OH 43215-3428

RE: Preliminary Petition for Am. Sub. H.B. 194

Dear Secretary of State Husted and Attorney General Dewine:

Pursuant to R.C. 3519.01(B), I am hereby filing an original petition with Secretary Husted containing the signatures of more than one thousand qualified electors who seek to circulate and file a referendum petition regarding Am. Sub. H.B. 194 of the 129th General Assembly, and with General Dewine a copy of the petition containing the summary and the legislation being referred bearing markups to reflect what provisions of law, sections and items are subject to referendum. The entire petition is composed of 69 part-petitions.

I would appreciate each of your offices reviewing the version that has been filed with it and issuing the appropriate certification under the statute as expeditiously as possible.

If you should have any questions, please do not hesitate to contact me by telephone or email.

Sincerely,

[Signature]

Jennifer L. Brunner  
Member of the Petition Committee  
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To the Secretary of State and the Attorney General of Ohio: Pursuant to Ohio Rev. Code §3519.01(B), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to each of you the full text of Am. Sub. H.B. 194 of the 129th General Assembly ("Act") with notations thereon designating each provision of law, section or item hereby sought to be submitted to a statewide referendum vote, and a summary of the same.

REFERENDUM PETITION
State of Ohio

To be submitted to the electors for their approval or rejection

TITLE

A referendum petition to submit to the voters of Ohio for their approval or rejection certain revisions to Ohio’s Election Law that would amend, enact and repeal certain provisions of law, sections and items contained in the Ohio Revised Code as amended by Am. Sub. H.B. 194 and that would enact sections 5, 6, 7 and 8 of Am. Sub. H.B. No. 194, all of which were passed by the 129th General Assembly on June 29, 2011, (passed by the House May 18, 2011, passed by the Senate June 23, 2011, with concurrence by the House June 29, 2011) and signed by the Governor July 1, 2011.

SUMMARY

Am. Sub. H.B. 194 amends at least 126 sections of existing Ohio law pertaining to elections, enacts 13 new sections of Ohio law pertaining to elections, repeals 5 sections of existing Ohio law pertaining to elections, nullifies administrative actions taken by the Secretary of State in 2009, 2010 and 2011, creates a December 31, 2011 deadline for boards of elections to rearrange and combine precincts to comply with minimum size requirements for precincts located in municipal corporations and specifies that if Am. Sub. H.B. 194 proves to be in conflict with H.B. 159 (regarding identification for voting), if and when it passes, H.B. 159 prevails.

This referendum petition seeks to place before the voters of the State of Ohio certain provisions of the law, sections and items contained in Am. Sub. H.B. 194, rather than the entire Act. As provided in Article II, section 1c of the Constitution of Ohio, no such law, section or item shall go into effect until and unless approved by a majority of those voting upon the same at the next succeeding regular or general election in any year occurring subsequent to 125 days after the filing of the referendum petition, with the remainder of Am. Sub. H.B. 194 not thereby being prevented or delayed from going into effect.

The vote of a majority of voters on this proposed referendum will determine whether the provisions of law, sections and items of Am. Sub. H.B. 194, as specified by this referendum petition, become a part of Ohio law. If a majority of the voters vote not to approve these provisions of law, sections and items, then these provisions of law, sections and items of Am. Sub. H.B. 194 will not take effect, and current law as it relates to these items will remain in effect. The following parts of Am. Sub. H.B. 194 are sought to be submitted to Ohio voters as to whether they approve or reject these changes of law:
1) The enactment of section R.C. 3501.40 which specifies that, in any administrative review or legal action brought regarding the actions of any election official, all of the following apply:
   - No election official can be presumed to have committed any error in the course of the election official's duties, unless that error is independently proved by the facts of the administrative review or legal proceeding.
   - If an election official has been found to have committed an error with respect to a particular person or set of circumstances, that election official must not be presumed to have committed an error with respect to any other person or set of circumstances, and
   - If election officials in one precinct, polling location, or county are found to have committed an error with respect to a particular person or set of circumstances, that error shall not be presumed to have occurred in any other precinct, polling location or county.

2) The amendment of section R.C. 3501.18 and the enactment of Section 6 of Am. Sub. H.B. 194 which establish and require a minimum precinct size of 500 electors for precincts located in municipal corporations and establish permissible variations from that mandate, giving the Secretary of State the authority to issue waivers from the minimum size requirement upon application and requiring precincts in municipal corporations to be rearranged and combined to comply with the minimum size requirement no later than December 31, 2011.

3) The amendment of R.C. 3517.01, specifically, R.C. 3517.01(B)(25), and the enactment of Section 7 of Am. H.B. 194, which respectively define corporations as "political contributing entities" similar to labor organizations and supercedes and makes void and of no further effect in the Ohio Administrative Code rules that became effective January 7, 2011 (Ohio Admin. Code §111-13-05) in response to the January 21, 2010 decision of the U.S. Supreme Court, commonly referred to as the "Citizens United" decision [Citizens United v. Federal Election Commission, 558 U.S. 80-205 (2010)] and that require corporations that make independent expenditures in political campaigns to identify them as such and include identifying information in advertising, report the making of such independent expenditures similar to the reporting of expenditures for ballot issues, prohibit the making of such independent expenditures if a principal of the corporation owning at least 20% of its shares is domiciled outside of the United States of America and prohibit the making of such independent expenditures if the corporation has received funds from the State of Ohio during the previous one-year period, beginning on the date that state funds or federal funds issued by the State of Ohio are awarded, when they use their funds or property to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election.

4) The items in R.C. 3519.16(E) which specify that members of a petitioning committee for a statewide initiative or referendum petition must be notified of an insufficient number of valid signatures by certified mail, and specifically subjecting to referendum the items, "by certified mail," and that a petitioning committee is prohibited from the gathering of additional signatures in the event of such insufficiency until after a member of the petitioning committee receives notification by certified mail from the Secretary of State, as appears in the last paragraph of R.C. 3519.16(E).

5) The amendment of R.C. 3599.03, specifically R.C. 3599.03(A), which removes from the law certain limiting exceptions from the prohibition of corporations using their money or property "for or in aid of or opposition" and removes said quoted language, substituting "to make a contribution" to a political party, a candidate for election or nomination to public office, a political action committee, a legislative campaign fund or any organization that supports or opposes any such candidate, and that removes the language "or for any partisan political purpose."

6) The amendment of section R.C. 3505.28 which defines when a ballot is marked contrary to law and specifically provides that a ballot is marked contrary to law and does not contain a technical error for the purposes of being counted if a voter marks the ballot for a candidate and writes in the identical candidate's name when not counted at a central location using automatic tabulating equipment and is approved to be counted by three members of the board of elections.

7) The amendment of R.C. 3503.14, specifically R.C. 3503.14(A)(5)(b), which requires the Secretary of State to prescribe the form and content of voter registration, change of residence and change of name forms used in Ohio to require a voter's full social security number (rather than the last four digits) on the voter registration form.

8) The enactment of R.C. 3503.15(A)(2)(a) and (b), which specifies that state agencies shall provide any information and data to the secretary of state that the secretary of state considers necessary in order to
maintain the statewide voter registration database," which ensures the protection of confidential information from such other agencies while it is in the possession of the secretary, which prohibits the use of such information provided by other agencies from being used to update the name or address of a registered elector and which specifies that the name or address of a registered elector "shall only be updated as a result of the elector's actions in filing a notice of change of name, change of address, or both."

9) The items in R.C. 3503.20(A)(2)(a) and (c), which require for online voter registration that a voter possess an Ohio driver's license or state issued identification card and supply his or her entire social security number, by eliminating the following language from R.C. 3503.20(A)(2)(a), "including the applicant's social security number" and from R.C. 3503.20(A)(2)(c), "using the applicant's Ohio driver's license number or the number of the applicant's Ohio identification card as proof of the applicant's identity."

10) The amendments of sections 3505.18, 3505.181, 3505.182 and 3505.183, all of which make the following changes to provisional and other voting procedures and requirements:
- Eliminate a provision of existing law permitting individuals without identification to execute an affirmation and have the individual's provisional ballot counted,
- Require an individual who does not have or cannot provide identification to the election officials to vote a provisional ballot, and permits such an individual to provide identification to the board of elections not later than the close of the polls or to provide the individual's Social Security number on the provisional ballot envelope, and allows such a person's ballot to be counted if the identification is so provided or the Social Security number is verified with the Bureau of Motor Vehicles,
- Permit instead of requires, an election official to direct a voter who is in the wrong precinct to the voter's correct precinct,
- Specify that it is the duty of the individual casting the ballot to ensure that the individual is casting that ballot in the correct precinct,
- Specify that, if an election official attempts to direct an individual to the correct precinct, and the individual subsequently casts a ballot in the wrong precinct, (a) that ballot shall not be counted, and (b) the ballot being cast in the wrong precinct shall not be considered to be caused by an error on the part of the election official,
- Provide additional language in the Revised Code regarding the ability of a blind, disabled or illiterate elector to receive assistance in completing an affirmation as such and in the marking of the elector's ballot by two precinct election officials of different political parties,
- Eliminate the provisional ballot affirmation form established in current law, and instead requires the Secretary of State to prescribe the form of the written affirmation by rule, which affirmation must be printed on the face of the provisional ballot envelope,
- Eliminate a provision of existing law that requires election officials to record on the provisional ballot envelope the type of identification provided by a provisional voter,
- Prohibit the election official from recording any of the information required to be provided by the provisional voter on the provisional ballot affirmation,
- Require the election official to explain to an individual who declines to execute the affirmation that the individual's provisional ballot will not be counted,
- Eliminate a provision of current law that requires election officials to record the name of an individual who declines to execute the affirmation and transmit that information with the provisional ballot for the purpose of ballot verification,
- Eliminate a provision of current law that permits such an individual's provisional ballot to be counted if the election officials determine that the individual is eligible to vote,
- Eliminate the option for an elector who does not provide identification or who does not provide documentation to resolve a polling place challenge to provide that information to the board of elections within ten days after the election,
- Eliminate the current law requirement that election officials note on the provisional ballot affirmation whether a provisional voter is required to appear at the board of elections within ten days to provide additional information,
• Eliminate a provision of current law that prohibits election officials from determining the validity of a provisional ballot until they receive the required information from the provisional voter or ten days passes, whichever occurs first,
• Eliminate a provision of current law that requires election officials, when considering the validity of a provisional ballot, to review additional information provided by the provisional voter within ten days after the day of the election,
• Eliminate a provision of existing law permitting a voter registration application hearing or a challenge hearing that has been postponed until after the election to be conducted during the ten days following the election, and requires the hearing to be conducted prior to the election,
• Specify that, when determining whether a provisional ballot is valid and entitled to be counted, the board of elections must examine the affirmation executed by the provisional voter, the Statewide Voter Registration Database, and other records maintained by the board of elections.
• Require the provisional voter to provide all of the following information on the affirmation for the provisional ballot to be eligible to be counted:
  (a) The elector's printed name;
  (b) The elector's signature;
  (c) The elector's date of birth;
  (d) The elector's Social Security number, Ohio driver's license number, or state identification card number, or an affirmative notation that the elector provided the required identification to the election officials;
  (e) The elector's residence address;
  (f) A statement that the individual is a registered voter in the jurisdiction in which the provisional ballot is being voted; and
  (g) A statement that the individual is eligible to vote in the election in which the provisional ballot is being voted, and
• Eliminate the current law requirement that an election official direct a voter who is in the wrong precinct to the voter's correct precinct.
11) The items in R.C. 3509.01(B)(2) and (3), which:
• Change the absentee voting period from 35 days to 21 days before the election, and specifically the language, "other than in person", and the substitution of "twenty-first" for "thirty-fifth",
• Require absent voter's ballots to be printed and ready for use for in-person voting beginning on the 17th day before the election through 6 p.m. on the last Friday before the election, except that in-person ballots must not be available for use on Sundays (all of R.C. 3509.01(B)(3)), and
• Specify that, on days absent voter's ballots may be cast in person, those ballots must be available Monday through Friday from 8 a.m. through 6 p.m. and Saturday from 8 a.m. to 12 p.m. (all of R.C. 3509.01(B)(3)).
12) The item in R.C. 3505.21(C) which references R.C. 3509.01(B)(3), specifically the language, "pursuant to division (B)(3) of the Revised Code", to be consistent with the referral of R.C. 3509.01(B)(3) for voter approval or rejection.
13) The items in section R.C. 3503.16 (G)(1), which permit a registered elector, on account of personal illness, physical disability, or infirmity, to vote on the day of the election if that registered elector, among other requirements, makes a written application to the appropriate board for an absent voter's ballot on or after the twenty-first (as opposed to the twenty-seventh) day prior to the election in which the registered elector wishes to vote through six p.m. of the Friday prior to that election (as opposed to noon of the Saturday prior to that election), specifically, the substitution of "twenty-first" for "twenty-seventh" and the substitution of "six p.m." for "noon" and of "Friday" for "Saturday".
14) The amendments of section R.C. 3509.03, specifically R.C. 3509.03(E)(2) and R.C. 3509.03(I), the items in section R.C. 3509.031(A)(5)(b) and R.C. 3509.031(B)(1)(5)(b), and the amendment of section R.C. 3509.031, specifically R.C. 3509.031(D), which:
• Require the entire Social Security number to apply for an absentee ballot,
• Prohibit a board of elections from mailing any unsolicited applications for absent voter's ballots,
• Permit a board of elections to mail an absent voter's ballot application only to an elector who has requested such an application, and
• Prohibit a board of elections from prepaying the return postage on absent voter's ballot applications and specifically require absent voters to send their marked ballots to a board of
elections with the postage prepaid.

16) The items in the following sections which change the requirement from the last four digits of a voter’s Social Security number to a voter’s Social Security number for the purposes of voter identification, registration and absentee voting: R.C. 3509.04 and R.C. 3509.05, R.C. 3511.02(A)(5)(b) and (C)(5)(b), R.C. 3511.05 and R.C. 3511.09.

17) The items in section R.C. 3503.19(C)(1)(c) and R.C. 3503.28(A)(5) which change the requirement from the last four digits of a voter’s Social Security number to a voter’s Social Security number for voter identification and that eliminate the use of an affirmation for voters not having any of the required forms of identification, including a Social Security number.

18) The amendment of R.C. 3503.24, specifically R.C. 3503.24(D), which eliminates the opportunity for a post-election hearing upon a challenge to a voter’s qualifications to vote.

19) The item in section R.C. 3509.07 that requires the Statement of Voter on a completed absent voter’s ballot identification envelope to contain the voter’s date of birth, and specifically only this language: "that the elector has not included the elector’s birth date on the identification envelope statement of voter."

20) The amendment of section R.C. 3501.35, specifically R.C. 3501.35(D), which prohibits the line of waiting voters and persons loitering, congregating or campaigning near that line from impeding the normal flow of traffic or access to the entrance or exit of any business or organization in the vicinity.

21) The enactment of R.C. 3501.50, which specifies that, any action brought challenging the constitutionality, legality, or enforcement of any provision of the Ohio Constitution governing elections or the Election Law shall be deemed to have been brought against the state, and all of the following apply:
   - The General Assembly must be notified of the filing of the action;
   - The General Assembly has the right to intervene in the action;
   - The General Assembly must be notified of any proposed consent decree before the consent decree is agreed to by the court; and
   - The General Assembly has the right to intervene in the action to object to any proposed consent decree.

22) The enactment of Section 5 of Am. Sub. H.B. 194, which specifies that Directives 2011-01 and 2009-21 issued by the Secretary of State, which address the petition requirements of new political parties, are void and shall not be enforced or have effect on or after the effective date of sections 3517.01 and 3517.012 of the Revised Code, as amended by Am. Sub. H.B. 194.

23) The enactment of Section 8 of Am. Sub. H.B. 194, which specifies the intent of the General Assembly that the provisions of H.B. 159 of the 129th General Assembly, if enacted, prevail over any conflicting provisions of Am. Sub. H.B. 194 for the purpose of determining the types of identification that is acceptable for voting under Title XXXV of the Revised Code.

CERTIFICATION OF THE ATTORNEY GENERAL

Without passing upon the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon me under Section 3519.01(B)(3) of the Ohio Revised Code, I hereby certify that I have received a copy of the petition, measure and summary, have examined the summary and in my opinion find it is a fair and truthful statement of the measure to be referred, being a proposed referendum concerning the legislation known as Am. Sub. H.B. 194 of the 129th General Assembly.

Pending, and if certified, by MIKE DEWINE
Ohio Attorney General
July XX, 2011

COMMITTEE TO REPRESENT THE PETITIONERS

Eric H. Kearney
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[Content of the page is not legible due to the quality of the image.]
IS GUILTY OF A FELONY OR THE FIFTH DEGREE.
WHOEVER COMMITS ELECTION FALSIFICATION

City, state and zip code of circulator

Address of circulator's permanent residence (Number and Street, Road or Rural Route)

(signed)

The proceeding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.

Name and address of entity employing circulator to circulate petition by:

For paid circulators only (volunteers leave blank): I am employed to circulate this petition by:

3501.382 of the Revised Code:

The signature of the person whose signature it purports to be or an attorney in fact acting pursuant to section 3501.38 of the Revised Code.

The signature of the person whose signature it purports to be or an attorney in fact acting pursuant to section 3501.38 of the Revised Code.

Neither declarer under penalty of election falsification in accordance with section 3501.38 of the Revised Code

contents of same:

section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the and are the signatures of the persons whose names they purport to be of attorneys in fact acting pursuant to

appended hereto were made and appended in my presence on the date set opposite each respective name.

circulator for the foregoing petition paper containing the signatures of
circulator.

I, (full name of petition circulator)
declare under penalty of election falsification that I am the

STAMENT OF CIRCULATOR