

**As Introduced**

**129th General Assembly  
Regular Session  
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**H. B. No. 343**

**Representative Hagan, R.**

**Cosponsors: Representatives Foley, Antonio, Gerberry, Pillich, Gentile,  
Fedor, Driehaus, Murray, Yuko**

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**A B I L L**

To amend section 187.02; to amend, for the purpose of 1  
adopting a new section number as indicated in 2  
parentheses, section 3.11 (3.18); to enact new 3  
section 3.11 and section 102.10 of the Revised 4  
Code to establish a controlled substance testing 5  
requirement for statewide elected officials, 6  
members of the General Assembly, the Supreme 7  
Court, the board of directors of JobsOhio, and 8  
recipients of Troubled Asset Relief Program money 9  
and to establish a process for recalling statewide 10  
elected officials and members of the General 11  
Assembly. 12

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 187.02 be amended, section 3.11 13  
(3.18) be amended for the purpose of adopting a new section number 14  
as indicated in parentheses, that new section 3.11 and section 15  
102.10 of the Revised Code be enacted to read as follows: 16

**Sec. 3.11.** (A) As used in this section, "statewide office" 17  
means any of the offices of governor, lieutenant governor, 18

secretary of state, auditor of state, treasurer of state, or 19  
attorney general. 20

(B) The holder of any statewide office may be removed from 21  
office by the qualified voters of the state. Any member of the 22  
general assembly may be removed from office by the qualified 23  
voters of the member's district. The procedure to effect such a 24  
removal shall be: 25

(1)(a) If the official whose removal is sought is the holder 26  
of a statewide office, a petition signed by qualified electors 27  
equal in number to at least fifteen per cent of the total votes 28  
cast in the state for the office of governor at the most recent 29  
election for that office, and demanding the election of a 30  
successor to the person sought to be removed, shall be filed. If 31  
the official whose removal is sought is the holder of an office 32  
other than the office of secretary of state, the petition shall be 33  
filed with the secretary of state. If the official whose removal 34  
is sought is the secretary of state, the petition shall be filed 35  
with the governor, and the governor shall fulfill all duties of 36  
the secretary of state with regard to that petition. 37

(b) If the official whose removal is sought is a member of 38  
the general assembly, a petition signed by qualified electors 39  
equal in number to at least fifteen per cent of the total votes 40  
cast in the respective district for the office of governor at the 41  
most recent election for that office, and demanding the election 42  
of a successor to the person sought to be removed, shall be filed 43  
with the board of elections of the most populous county in the 44  
district. 45

(2) A petition filed under this section shall contain a 46  
general statement in not more than two hundred words of the 47  
grounds upon which the removal of the official is sought. The form 48  
and sufficiency of the petition shall be determined as provided in 49  
the general election laws. 50

(3) If the petition is sufficient, and if the official whose removal is sought does not resign within five days after the sufficiency of the petition has been determined, the question of removal of the official shall appear on the ballot at the next general election or at a special election conducted on the day of the next primary election, if the date of such election is fewer than one hundred fifty days after the petition is filed. If the date of the next succeeding general election or primary election is one hundred fifty or more days after the petition is filed, a special election shall be held to determine the question of the removal of the official, and for the selection of a successor to the official.

If the election is for the removal of the holder of a statewide office, the secretary of state or, if applicable, the governor, shall thereupon order and fix the day for the special election. If the election is for the removal of a general assembly member, the board of elections of the most populous county in the member's district, after consultation with the board of elections of each county with territory in the district, shall thereupon order and fix the day for the special election. Such election shall be held not less than thirty nor more than forty days from the time of the finding of the sufficiency of such petition. The election authorities shall publish notice and make all arrangements for holding such election, which shall be conducted and the result thereof returned and declared in all respects as are the results of regular elections for the applicable office.

(4) The nomination of candidates to succeed the official who is sought to be removed shall be made, without the intervention of a primary election, by filing with the election authorities, at least twenty days prior to the election, a nominating petition that meets the requirements of section 3513.261 of the Revised Code.

(5) The ballots at such a recall election shall, with respect 83  
to the official whose removal is sought, submit the question: 84  
"Shall (name of person) be removed from the office of (name of 85  
office) by recall?" 86

Immediately following each such question, there shall be 87  
printed on the ballots, the two propositions in the order set 88  
forth: 89

"For the recall of (name of person)." 90

"Against the recall of (name of person)." 91

Immediately to the left of the proposition shall be placed a 92  
square in which the electors may vote for either of such 93  
propositions. 94

Under that question shall be placed the names of candidates 95  
to fill the vacancy. The name of the official whose removal is 96  
sought shall not appear on the ballot as a candidate to succeed 97  
the member's self. 98

(6) In any such election, if a majority of the votes cast on 99  
the question of removal are affirmative, the official whose 100  
removal is sought is removed from office upon the announcement of 101  
the official canvass of that election, and the candidate receiving 102  
the plurality of the votes cast for candidates for that office 103  
shall be declared elected. The successor of any person so removed 104  
shall hold office during the unexpired term of the successor's 105  
predecessor. 106

(C) No petition shall be filed under this section seeking the 107  
removal of an official until the official has served for at least 108  
ninety days of the term during which the official is sought to be 109  
recalled. The method of removal provided in this section, is in 110  
addition to such other methods as are provided by law. If, at any 111  
such recall election, the incumbent whose removal is sought is not 112  
recalled, the incumbent shall be repaid the incumbent's actual and 113

legitimate expenses for such election from the state treasury. 114

**Sec. ~~3.11~~ 3.18.** No person shall hold at the same time by 115  
appointment or election more than one of the following offices: 116  
sheriff, county auditor, county treasurer, clerk of the court of 117  
common pleas, county recorder, prosecuting attorney, and probate 118  
judge. 119

**Sec. 102.10.** (A) As used in this section: 120

(1)(a) Except as provided in division (A)(1)(b) of this 121  
section, "controlled substance test failure" means that an 122  
individual is determined by a chemical test to have a 123  
concentration of any of the controlled substances specified in 124  
division (A)(1)(j) of section 4511.19 of the Revised Code, or 125  
metabolites of such a controlled substance, in the individual's 126  
urine that equals or exceeds any of the applicable levels 127  
established in that division for urine. 128

(b) An individual shall not be determined to have a 129  
controlled substance test failure if the individual obtained the 130  
controlled substance pursuant to a prescription issued by a 131  
licensed health professional authorized to prescribe drugs and the 132  
individual injected, ingested, or inhaled the controlled substance 133  
in accordance with the health professional's directions. 134

(2) "Licensed health professional authorized to prescribe 135  
drugs" and "prescription" have the same meanings as in section 136  
4729.01 of the Revised Code. 137

(3) "Statewide elected official" means any of the offices of 138  
governor, lieutenant governor, secretary of state, auditor of 139  
state, treasurer of state, or attorney general. 140

(4) "TARP recipient" means an officer, executive, or 141  
corporate staff member of a financial institution that receives or 142  
has received funding from the troubled asset relief program. 143

(B)(1) Before taking office or fulfilling an individual's 144  
appointment and once every year thereafter, statewide elected 145  
officials, members of the general assembly, justices of the 146  
supreme court, and members of the board of directors of JobsOhio 147  
shall be subject to a controlled substance test to determine 148  
whether the official, member, justice, or director has a 149  
controlled substance test failure. The costs of such testing shall 150  
be paid by such official, member, justice, or director. 151

(2) Once every year TARP recipients shall be subject to a 152  
controlled substance test to determine whether the recipient has a 153  
controlled substance test failure. The costs of such testing shall 154  
be paid by the recipient. 155

(C) To be considered valid, the controlled substance test 156  
shall be performed according to rules adopted by the Ohio ethics 157  
commission that shall provide for the test to be conducted in a 158  
manner that assures a reasonable degree of dignity while 159  
reasonably preventing substitution or contamination of any 160  
specimen taken for the test. The rules shall also provide for a 161  
manner in which the controlled substance test will be administered 162  
before the individual takes office or fulfills the individual's 163  
appointment, as applicable, and randomly, on a yearly basis. 164

(D) Refusal to submit to a controlled substance test as 165  
authorized under this section is an admission that the official, 166  
member, justice, director, or recipient has a controlled substance 167  
test failure. 168

(E)(1) If a statewide elected official, member of the general 169  
assembly, or justice of the supreme court is determined by a 170  
controlled substance test conducted under this section to have a 171  
controlled substance test failure, the Ohio ethics commission 172  
shall refer the officer, member, or justice to an alcohol and drug 173  
addiction program certified under section 3793.06 of the Revised 174  
Code. Such an official, member, or justice may also be subject to 175

the following, if the criteria for such action otherwise applies: 176  
impeachment under Sections 23 and 24 of Article II, Ohio 177  
Constitution; removal under Section 17 of Article IV, Ohio 178  
Constitution; removal under Section 38, Article II, Ohio 179  
Constitution and sections 3.07 to 3.10 of the Revised Code; recall 180  
under section 3.11 of the Revised Code; or any other sanction 181  
authorized by law or rule covering the respective official, 182  
member, or justice. 183

(2) If a member of the board of directors of JobsOhio is 184  
determined by a controlled substance test conducted under this 185  
section to have a controlled substance test failure, the member 186  
shall be deemed to not fulfill the qualifications for the 187  
appointment to the board under section 187.02 of the Revised Code 188  
and shall be removed by the governor. 189

(3) If a TARP recipient is determined by a controlled 190  
substance test conducted under this section to have a controlled 191  
substance test failure, the Ohio ethics commission shall refer the 192  
recipient to an alcohol and drug addiction program certified under 193  
section 3793.06 of the Revised Code. 194

**Sec. 187.02.** (A) To qualify for appointment to the board of 195  
directors of JobsOhio, an individual must satisfy all of the 196  
following: 197

(1) Has an understanding of generally accepted accounting 198  
principles and financial statements; 199

(2) Possesses the ability to assess the general application 200  
of such principles in connection with the accounting for 201  
estimates, accruals, and reserves; 202

(3) Has experience preparing, auditing, analyzing, or 203  
evaluating financial statements that present a breadth and level 204  
of complexity of accounting issues that are generally comparable 205

to the breadth and complexity of issues that can reasonably be 206  
expected to be presented by the JobsOhio corporation's financial 207  
statements, or experience actively supervising one or more persons 208  
engaged in such activities; 209

(4) Has an understanding of internal controls and the 210  
procedures for financial reporting; 211

(5) Has an understanding of audit committee functions; 212

(6) Fulfills the requirements for controlled substance tests 213  
required by section 102.10 of the Revised Code. 214

(B) Specific experience demonstrating the qualifications 215  
required by division (A) of this section may be evidenced by any 216  
of the following: 217

(1) Education and experience as a principal financial 218  
officer, principal accounting officer, controller, public 219  
accountant or auditor, or experience in one or more positions that 220  
involve the performance of similar functions; 221

(2) Experience actively supervising a principal financial 222  
officer, principal accounting officer, controller, public 223  
accountant, auditor, or person performing similar functions; 224

(3) Experience overseeing or assessing the performance of 225  
companies or public accountants with respect to the preparation, 226  
auditing, or evaluation of financial statements; 227

(4) Other experience considered relevant by the governor 228  
consistent with division (A) of this section. 229

(C) Each individual appointed to the board of directors shall 230  
be a citizen of the United States. At least six of the individuals 231  
appointed to the board shall be residents of or domiciled in this 232  
state. 233

**Section 2.** That existing sections 3.11 and 187.02 of the 234  
Revised Code are hereby repealed. 235