



# Ohio Legislative Service Commission

## Resolution Analysis

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### H.J.R. 2

130th General Assembly  
(As Introduced)

Rep. Stinziano

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## RESOLUTION SUMMARY

- Specifies that every elector has the right to vote in the exercise of political power and that nothing in the Ohio Constitution may be deemed to deny, diminish, or impair the rights of any elector qualified to vote in any election in Ohio.
- Eliminates the requirement that an elector be registered to vote.
- Removes the requirement that an elector have been a resident of the state, county, township, or ward for a period specified by law (currently, 30 days).
- Specifies that any elector who knowingly votes more than once in any election must be disenfranchised, subject to restoration by a court of competent jurisdiction.
- Provides that no person convicted of a felony may be denied the franchise or be determined ineligible to hold office unless incarcerated upon that felony conviction.
- Specifies that no person who has been adjudged incompetent by a court of competent jurisdiction or who, by virtue of benefits received, has been adjudged to have a mental disability that prevents the person from being competent to vote may be an elector.
- Modifies the rights of initiative and referendum by specifying that the people may adopt or reject any law passed by the General Assembly, any codified section of law as contained in a law passed by the General Assembly, or any item in any law passed by the General Assembly, whether or not appropriating money.
- Requires an automatic recount if the margin of difference between the number of votes received by the top two candidates in any race or the number of votes in favor of or against any ballot issue or question is less than 1%.

- Submits the proposed constitutional changes to the voters at the November 5, 2013, general election.
- Specifies that if the proposal is adopted by a majority of the electors voting on the proposal, it will take effect immediately.

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## CONTENT AND OPERATION

### Right to vote

The resolution proposes an amendment to the Ohio Constitution to specify that every elector has the right to vote in the exercise of political power and that nothing in the Ohio Constitution may be deemed to deny, diminish, or impair the rights of any elector qualified to vote in any election in Ohio.<sup>1</sup>

The resolution eliminates the requirement that an elector be registered to vote, and also removes the requirement that the elector have been a resident of the state, county, township, or ward for the period specified by law (currently, 30 days). Relatedly, the resolution eliminates a current constitutional provision that states that a person who fails to vote in a four-year period ceases to be an elector unless the person again registers to vote. Under continuing law, an elector must be a U.S. citizen, a resident of Ohio, and at least 18 years of age.

Under the resolution, any elector who knowingly votes more than once in any election must be disenfranchised, subject to restoration by a court of competent jurisdiction. For the purposes of this requirement and the definition of an elector, the resolution defines "election" as any federal, state, district, or local election or any combination of them, whether a general, primary, or special election.<sup>2</sup>

The resolution also modifies the power of the General Assembly to exclude felons from the privilege of voting (under the resolution, the *right* of voting) and to prevent them from holding office by specifying that no person convicted of a felony may be denied the franchise or be determined ineligible to hold office unless incarcerated upon that felony conviction. The Revised Code currently provides that a person is ineligible to vote while incarcerated for a felony conviction.<sup>3</sup>

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<sup>1</sup> Ohio Const. Art. I, Secs. 2 and 20.

<sup>2</sup> Ohio Const. Art. V, Sec. 1 and R.C. 3503.01.

<sup>3</sup> Ohio Const. Art. V, Sec. 4 and R.C. 2961.01.



Finally, the resolution eliminates the constitutional provision that specifies that no idiot or insane person may be an elector, and states instead that no person who has been adjudged incompetent by a court of competent jurisdiction or who, by virtue of benefits received, has been adjudged to have a mental disability that prevents the person from being competent to vote may be an elector.<sup>4</sup>

### **Initiative and referendum**

The resolution amends the portion of the Constitution that establishes the rights of initiative and referendum. Under the resolution, the people reserve the power to adopt or reject any law passed by the General Assembly, any codified section of law as contained in a law passed by the General Assembly, or any item in any law passed by the General Assembly, whether or not appropriating money. Currently, the Constitution states that the people reserve the power to adopt or reject any law, section of any law, or any item in any law appropriating money (see **COMMENT**).<sup>5</sup>

### **Automatic recount**

Under the resolution, if the margin of difference between the number of votes received by the top two candidates in any race or the number of votes in favor of and against any ballot issue or question is less than 1%, the results of the election must be verified by audit. The Revised Code currently requires an automatic recount if that margin is less than 0.25% for a race or issue in a statewide election or less than 0.5% for a race or issue in a district, county, or municipal election.<sup>6</sup>

### **Election schedule and effective date**

The resolution submits the proposed constitutional changes to the voters at the November 5, 2013, general election. If adopted by a majority of the electors voting on the proposal, it will take effect immediately.<sup>7</sup>

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<sup>4</sup> Ohio Const. Art. V, Sec. 6.

<sup>5</sup> Ohio Const. Art. II, Sec. 1.

<sup>6</sup> Ohio Const. Art. V, Sec. 2 and R.C. 3515.011.

<sup>7</sup> Effective date and repeal.



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## COMMENT

### Initiative and referendum

Under the resolution, the people reserve the power to adopt or reject any law passed by the General Assembly, any codified section of law as contained in a law passed by the General Assembly, or any item in any law passed by the General Assembly, whether or not appropriating money. Currently, the Constitution states that the people reserve the power to adopt or reject any law, section of any law, or any item in any law appropriating money.

This provision creates two potential conflicts with other sections of the Ohio Constitution. First, because the resolution specifies that the people may adopt or reject any law *passed by the General Assembly*, the resolution appears to eliminate the ability of the people to enact a statute by initiative. However, another section of the Constitution, which the proposal does not amend, details the process for the people to initiate a statute instead of having the General Assembly enact it.<sup>8</sup>

Furthermore, by stating that the people may adopt or reject any item in any law passed by the General Assembly, whether or not appropriating money, the resolution might be interpreted as allowing a referendum on an appropriation. Under a separate constitutional provision, laws making appropriations for the current expenses of the state government and state institutions go into immediate effect and are not subject to the referendum.<sup>9</sup>

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## HISTORY

ACTION	DATE
Introduced	01-30-13

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<sup>8</sup> Ohio Const. Art. II, Sec. 1 and Sec. 1b (not in the resolution).

<sup>9</sup> Ohio Const. Art. II, Sec. 1 and Sec. 1d (not in the resolution).

