Supreme Court of Ohio Clerk of Court - Filed December 31, 2015 - Case No. 2015-2061

Case No. 15-2061

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. LES CARRIER, ET AL.,

Relators,

v.

HILLIARD CITY COUNCIL,

Respondent.

Original Action in Mandamus

Expedited Election Matter Under S.CT.PRAC.R. 12.08

REPLY BRIEF OF RELATORS

Donald J. McTigue (0022849) Mark A. McGinnis (0076275) J. Corey Colombo (0072398) Derek Clinger (0092075) MCTIGUE MCGINNIS & COLOMBO LLC 545 East Town Street Columbus, Ohio 43215 Phone: (614) 263-7000 Facsimile: (614) 263-7078 dmctigue@electionlawgroup.com mmcginnis@electionlawgroup.com ccolombo@electionlawgroup.com dclinger@electionlawgroup.com *Counsel for Relators*		Joseph R. Miller (0068463) Christopher L. Ingram (0086325) Christopher A. LaRocco (0093572) Vorys Sater Seyomur & Pease LLP 53 East Gay Street, P.O. Box 1008 Columbus, Ohio 43215 Phone: (614) 464-6400 Facsimile: (614) 719-4606 jrmiller@vorys.com clingram@vorys.com calarocco@vorys.com *Counsel for Respondents*

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I. INTRODUCTION

Julius Cesar once observed that "men willingly believe what they wish." And so it is here. Respondent's Merit Brief is characterized by wild assertions about what Relators purport to want, that is, for city council to "rubber stamp" the Proposed Charter Amendment and for this Court to "relax the strict compliance standard" and "overrule decades of precedent." That a majority of City Council may prefer not to submit the matter to the voters and may wish that there was some basis for rejecting the petition, the fact remains that Relators have presented a Charter Amendment Petition which is in all respects valid and sufficient and ask only for that to which they are entitled – submission to the electors of the municipality.

II. ARGUMENTS IN RESPONSE

Relators do not waive any assertions or objections raised in their Merit Brief. But, in the interest of brevity, those arguments will not be repeated here. Rather, Relators will address Respondent's inability to actually address these assertions and Respondent's apparent goal to manipulate the substance of Relators' arguments to justify their failure to submit the charter amendments to the electors.

A. Respondents' Laches Defense is Inapplicable and Without Merit

Respondent attempts to avoid a substantive defense of their failure to submit the charter amendments by raising the defense of laches.

[Respondent's Br. 22-24.] In so doing, Respondent cites not a single case supporting this Court's rejection of a case filed within 8 days of the act which forms its basis, they ignore the City's own role in causing any supposed delay, and they ignore the "fundamental tenet of judicial review in Ohio that courts should decide cases on their merits." [*State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St. 3d 257, 2012-Ohio-4149, 978 N.E.2d 119,¶ 21; *quoting State ex rel. Becker v. Eastlake*, 93 Ohio St.3d 502, 505, 756 N.E.2d 1228 [2001].]

In *State ex rel. Polo*, relied on by Respondent, this Court made it clear that there could be no finding of laches absent a showing of "prejudice to the other party." [*State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*, 74 Ohio St. 3d 143, 145, 656 N.E.2d 1277 (1995).] The sole prejudice which Respondent claims is the triggering of this Court's expedited election schedule, which applies to actions filed within 90 days prior to an election. [S.Ct.Prac.R. 12.08(A)(1).] The ninetieth day prior to the March 15, 2016 special election was December 16, 2015. Respondent did not take final action until the evening of December 14, 2015. Accordingly, Respondent claims to have been prejudiced by the Relators' "failure" to prepare and file a verified complaint seeking extraordinary relief in the Supreme Court of Ohio the very next day.

The expedited schedule places the burden on parties in favor of protecting the electors and the boards of elections who must prepare ballots. Respondent makes no claim that election authorities or electors are

prejudiced. Indeed. That would not be possible given the 60-day deadline permitted by the constitution for the city to submit the proposed charter amendment to the board of elections. [Sec. 8, Art. XVIII, Ohio Constitution.] The schedule is difficult on Relators' Counsel as well, who must gather and verify sufficient evidentiary material to support a claim for extraordinary relief in this Court. Often, this material must be gathered from the very public entity that has performed or refused to perform the act which forms the basis of the complaint. Respondent's lament that it has been restricted in its time to prepare and defend against Relators' claims is without merit.

The Council Clerk could have submitted the petition to the Board of Elections on November 3, 2015, the day after filing, to have the signatures checked rather than waiting until November 13, 2015. This Court has held that the 10-day waiting period in R.C. 731.28 conflicts with the charter amendment provisions of the Constitution and does not apply. [*State ex rel. Blackwell v. Bachrach* (1957), 143 N.E.2d 127, Syllabus ¶ 5, 166 Ohio St. 301.] Further, the Constitution does not require the ordinance submitting the charter amendment question to be read on three separate occasions. [*Merryman v. Gorman* (1953), 69 Ohio L.Abs. 421, 117 N.E.2d 629.] Indeed, this Court has held that many of the usual legislative formalities need not be strictly observed for an ordinance submitting a charter amendment question to the ballot. [*See*, *e.g.*, *State ex rel. Mccormick v. Fouts* (1921), 132 N.E. 729,

103 Ohio St. 345.] The ordinance referring the Charter Amendment Petition to the board of elections for placement on the ballot could also have been considered as an emergency.

Respondent was informed by the board of elections that the Charter Amendment Petition contained sufficient signatures on November 18, 2015. [Resp't Evidence Ex. 4.] This date would have been much earlier if the city had not delayed sending the petitions to the board of elections. Respondent could have acted immediately thereafter to submit the issue for placement on the ballot, rather than stretching consideration of the ordinance out over three weeks (November 23; December, 7, and; December 14) and waiting until the evening of December 14 to act; leaving only a single day before the court's 90-day period for expedited election cases. However, one day is not sufficient time for petitioners to obtain and consult with legal counsel and for counsel to review if there is a bona fide basis for legal action and then prepare and file a verified complaint seeking an extraordinary writ.

Respondent has asserted the very arguments in support of its actions that have been asserted all along – the very arguments upon which it relied on at its December 14, 2015 meeting. Accordingly, Respondent could not have been surprised by the claims asserted in the action herein. Further, Respondent cites a news article reporting that Relators discussed at the December 14, 2015 meeting that the petitioners "would challenge the legal

opinion" and were considering "seeking a writ of mandamus in this Court." [Resp't Br. 7.] Respondent surely knew that this action was coming and that it would be based upon the arguments made at the December 14, 2015 where the ordinance referring the charter amendments to the board of elections for placement on the ballot was rejected. Indeed, Respondent filed its Answer on Christmas Eve, December 24, 2015; one day after the issuance of the Summons and Complaint by the Court. That same day, Relators filed their Merit Brief and Evidence. On December 28, 2015, Respondent filed its Merit Brief and Evidence.[1]

The law director could also have brought the action the next day to prevent the application of the expedited calendar. Rather, when Relators' requested that Respondent's law director bring the mandamus action, she requested an additional day to consider the request, which Relators provided. [Resp't Evid. Ex. 13.] There can be no credible claim of prejudice by Respondent where events have occurred precisely as would be expected based on Respondent's actions.

Accordingly, based on the above, Respondent has failed to provide a basis for the application of laches in this case.

[1] In the Christmas spirit, Respondent gifted itself an extra day to file, submitting its Merit Brief and Evidence four days after Relators' submission on December 24, 2015, rather than the three days provided in S.Ct.Prac.R. 12.08(A)(2)(b).

B. The Charter Amendment Petition is Valid and Must be Submitted to the Electors for Their Approval or Rejection

a. The Charter Amendment Petition the Title and Text of Each of The Proposed Charter Amendments

From the outset, Respondent misstates the applicable law, twists the facts, and distorts or altogether ignores Relators' arguments. The unavoidable fact that Respondent cannot escape through its mischaracterizations and machinations is that each of the proposed amendments does, in fact, include a title. First, Respondent's efforts to mischaracterize the titles of the charter amendment proposals as "headings" is unavailing. Second, Respondent's reliance upon the statutory law used by the General Assembly to pass legislation and by the city council to pass ordinances is wholly irrelevant. Third, Respondent's arguments concerning a non-existent introductory language requirement are not only incorrect, but rise to obfuscation.

For example, Respondent misstates that Relators have asked this Court to "relax the strict compliance standard and acquiesce in some substantial compliance regime wherein multiple section headings can be strung together …" [Resp't Br.2.] Relators have made no attempt to, and do not now, assert substantial compliance. Rather, Relators have asserted that the Charter Amendment Petition contains the full text and titles of the proposed amendments and thus is in complete compliance with all

requirements for submission to the electors. Respondent's attempts to mischaracterize Relator's arguments cannot hide the plain truth – there are titles for each amendment contained in the Charter Amendment Petition.

Respondent asserts that "Relators have not and cannot cite to a single decision where multiple section headings strung together were found to satisfy the title requirement in R.C. 731.31 with which strict compliance is required." [Resp't Br. 13.] The fallacy of this argument is that it does not accept that separate titles can be used for separate proposed amendments. Indeed, Respondent has not, and cannot, cite a single authority for the proposition that having separate titles for each proposed charter amendment somehow fails to strictly comply with R.C. 731.31.

Respondent's discussion concerning the legal requirements set forth in the city charter and the Ohio Revised Code relating to headings for ordinances introduced by council members and in legislation introduced in the General Assembly is nothing more than obfuscation. It misses the mark as these arguments and the authority offered in their support have nothing to do with charter amendments. Nor does Respondent offer any explanation for how the Charter Amendment Petition, which contains a title for each proposed charter amendment could possibly be defective considering that it is precisely how the city charter itself is set up, wherein each section has its own unique title.

Respondent relies heavily on *State ex rel. Becker v. Eastlake*, correctly noting that Relators' Counsel herein was respondent's counsel in that matter. [*State ex rel. Becker v. Eastlake* (2001), 93 Ohio St.3d 502, 756 N.E.2d 1228.] Despite Respondent's claim that this Court "denied the very writ Relators seek here" in *Becker*, Respondent fails to inform the Court of a critical factual difference which is that the proposed charter amendment in Becker "specifies no title for the proposed charter amendment adding a section, even though existing [city] Charter sections have titles." [*State ex rel. Becker v. Eastlake* (2001), 93 Ohio St.3d 502, 507, 756 N.E.2d 1228.] Indeed, the petition in Eastlake stated only, "[s]hall the Charter of the City of Eastlake be amended to enact new Article X, Section 9 so that the same shall read as follows: [immediately followed by the text of the proposed amendment without any title.]"[*State ex rel. Becker v. Eastlake* (2001), 93 Ohio St.3d 502, 502, 756 N.E.2d 1228.] The difference is in the details as the Proposed Charter Amendment petition herein precisely specifies a proposed title for each proposed charter amendment adding a section in the very same manner as existing Hilliard Charter sections have titles. By including a title for each proposed charter section in the same manner as the provisions contained in the existing Hilliard City Charter, Relators herein avoided the defect which doomed the charter amendment proposal in *Becker*. Thus, *Becker* actually supports Relators' position, not Respondent's.

Similarly, Respondent also heavily relies on *State ex rel. Esch v. Lake County Board of Elections* (1991), 61 Ohio St.3d 595, 575 N.E.2d 835. Indeed, Respondent claims "Relators seek to overturn [*Esch*] and its progeny, wherein this Court has repeatedly held that an initiative petition must strictly comply with the requirement in R.C. 731.31 that the measure contain a title." [Resp't Br. 1.] Again, to the contrary, Relators have not made any such argument and need not do so. In *Esch*, it was conceded that protested petition contained no title for a proposed ordinance and the petitioners argued that the lack of a title was a technical defect and that strict compliance with R.C. 731.31 was not necessary. [*State ex rel. Esch v. Lake County Board of Elections* (1991), 61 Ohio St.3d 595, 597.] Relators herein have not conceded anything, but rather have strongly asserted that the Charter Amendment Petition properly includes text and titles of the proposed charter amendments. Thus, *Esch* is easily distinguished and is wholly inapposite to Respondent's arguments.

Finally, Respondent articulates a new requirement, found nowhere in the law. Respondent seeks to twist the title requirement into a super title requirement where the entire proposal, when it contains more than one amendment, must also be given a unique title. According to Respondent, a charter amendment petition that only contains separate titles for proposed amendments, that is, sets forth charter proposals in precisely the same

manner as existing charter provisions, must fail. Respondent claims that there must also be a "singular" overall title. Respondent asserts that the Charter Amendment Petition's "failure" to meet this unarticulated, extra-legal requirement forms the basis upon which Respondent may properly withhold referring the measure to the electors. Respondent blindly cites to R.C. 731.31 in support of this proposition, but can point to no case where this Court has read this unarticulated requirement into the legislative text. Rather, as Relators' noted in their Merit Brief, uniquely titling each proposed amendment provides more information to potential signatories of the petition as to the nature of the proposals. As with legislation, a singular title becomes increasingly less informative as the text of the proposal is increased. For example, providing unique titles for each amendment is much more informative than removing them and simply titling the proposal the "Zoning and TIF Amendments," which would have apparently been more satisfactory to Respondent.

Respondent should heed its own advice as its preference is not codified in law and their remedy is to petition the legislature to amend the title requirement. [See Resp't Br. 13.] Respondent is attempting to add a requirement to the charter amendment process so as to deprive the voters of the opportunity to consider the proposed amendments. Rather than rewrite

the law, Relators have simply followed it and are entitled to have the charter amendment question placed before the electors of the municipality.

After all of the legal arguments what should not be lost here, and cannot be denied, is the fact that any person looking at the face of the petition will have their attention quickly drawn to the descriptive title of each amendment set forth in bold capital letters:

"**ARTICLE XII, SECTION 12.09 – REFERENDUM AND EFFECTIVE DATE ON ZONING ORDINANCES**," and,

"**ARTICLE XII, SECTION 12.10 – PROHIBITION OF CREATION OF TAX INCREMENT FINANCING INCENTIVE DISTRICTS FOR DWELLING UNIT IMPROVEMENTS AND PROHIBITION OF DECLARATION OF DWELLING UNIT IMPROVEMENTS AND PROHIBITION OF DECLARATION OF DWELLING UNIT IMPROVEMENTS TO BE A PUBLIC PURPOSE**."

b. The Charter Amendment Petition Properly Sets Forth the Proposed Amendment

Respondent asserts that the petition is defective because it does not contain "prefatory language explaining the amendment" and that what follows are two new sections to be added to the city charter. [Resp't Br. 6.] Respondent can cite no support for this nonexistent requirement. Further, the face of the petition itself includes such prefatory language providing,

> "To the Council, the legislative authority of the City of Hilliard, Ohio:
> We, the undersigned, qualified electors of the City of Hilliard, Ohio respectfully petition the legislative authority to forthwith provide by Ordinance, for the submission to the electors of said city or village, the

> following proposed amendment to the Charter of said city or village to-whit:"

What follows are the text and title of the proposed amendments. There is no constitutional, statutory, or case authority supporting the need for any additional prefatory language nor formatting to connote the nature of the language of the amendment.[2]

Ohio Constitution Article XVIII, § 9, sets forth the petition requirements, providing, in part:

> Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality *setting forth any such proposed amendment*, shall be submitted by such legislative authority.

[Emphasis supplied.] R.C. § 731.31 provides, in part:

> Any initiative or referendum petition may be presented in separate parts, *but each part of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure*, and each part of any referendum petition shall contain the number and a full and correct copy of the title of the ordinance or other measure sought to be referred.

[Emphasis supplied.] Again, there is simply no requirement that a charter amendment petition include the prefatory language Respondent seeks.

Respondent's discussion of the rules applicable to legislative ordinances is unavailing as the Charter Amendment Petition does not

[2] Notably, the Charter Amendment Petition herein does not propose changes to any existing charter language. Thus, there is no need to show changes through the use of underlining and/or strike-throughs.

propose a legislative ordinance. [Resp't Br. 15.] Further, Respondent's citations are equally inapposite. Resp't Br. 15-16.] This Court's dicta in *Esch* concerning the need to alert signers to the "nature of the proposed legislation" was in reference to the need to include a title. [*See, State ex rel. Esch v. Lake Cty. Bd. of Elections* (1991), 61 Ohio St.3d 595, 575 N.E.2d 835.] The same is true for Respondent's citation to *Hazel*, which concerned a reversal of a determination by a board of elections that an initiative proposing an ordinance was invalid because it was misleading and ambiguous. [*State ex rel. Hazel v. Cuyahoga Cty. Bd. of Elections*, 80 Ohio St.3d 165, 1997-Ohio-129.] Even the most cursory review of these cases reveals that they had nothing to do with prefatory language or formatting to connote the type of amendment proposed as those matters were never even at issue.

Accordingly, Respondent's second articulated basis for rejecting the Charter Amendment Petition, *i.e.*, that it does not contain "prefatory language explaining the amendment" and that what follows are two new sections to be added to the city charter, is not supported by law and the charter amendment question must be submitted to the electors for their approval or rejection.

c. There is No Legal Basis for City Council to Refuse to Submit a Proposed Charter Amendment to the Voters Because the Committee in Charge of the Petition Chose to Include the Name of Their Committee Above Where their Names are Listed on the Petition

Respondent City Council argues that the petition is fatally defective because the committee in charge of the petition typed the name of their committee above the section of the petition where they typed their names as allowed by R.C. 731.32. It goes on to argue that this "defect" was misleading to petition signers.

Respondent asserts that this is an alteration of the petition form prepared by the Secretary of State for use by petitioners. However, what is not said is that there is no constitutional or statutory provision that requires petitioners to even use a form prescribed by the Secretary of State, unlike is the case with candidate petitions. [See, e.g., R.C. 3513.07.] Therefore, the contention that adding the committee name is an alteration of a form not required to be used means that the assertion is without any legal efficacy-not to mention that characterizing the additional information as an "alteration" is dubious to start with. More importantly, *Respondent can point to no legal authority that prohibits typing the committee's name above the names of the committee members* or that this constitutes a prohibited alteration of a form assuming the form was even required to be used, which it was not.

Further, even if including the committee's name was prohibited by law, it is fantastical speculation on Respondent's part that including the name could have "misled" people into signing the petition. Respondent is clearly overreaching here in order to keep the issue off the ballot. Respondent seems to argue that persons could be misled by viewing the committee name as an endorsement of the issue by an outside group that it claims did not exist or could have been misled into believing that the proposal involved a beautification project. In engaging in these fantasies, Respondent mishandles the facts. Contrary to Respondent's claims, the name of the committee is not just above where persons sign the petition. As anyone can plainly see, it is above a different section of the petition. It is also on a different page than where the titles and text of the proposed amendments appear. The titles and full text of the proposed amendments are on the cover page and can be read by any potential signer before turning the page. It becomes apparent from the record that what has Respondent riled up about including the committee name, "Keep Hilliard Beautiful," is that for some reason it takes personal offense at the name.[3]

[3] See Respondent's Merit Brief, at 1, "nor does the measure entail a beautification project as the endorsement implies" and at 5, "Councilwoman McGivern stated that she was concerned with the confusion that the misleading committee name creates on the face of the petition given that the proposed charter amendment has nothing to do with any beautification or landscaping effort." Of course, beauty is in the eye of the beholder and as Relator Lambert told council the name does not say "Make Hilliard Beautiful. It says Keep Hilliard Beautiful." [Respondent's Exhibit 14, p. 8]. Certainly that is one objective that may be achieved from the proposed amendments that relate to development.

Respondent repetitively mischaracterizes the inclusion of the committee's name as an "endorsement." It clearly is not. The record shows it was the informal, working name of the committee in charge of the petition. [Resp't Ex. 14, p. 7, Relators Ex. G, para. 2]. As such, it is not an endorsement. An endorsement would imply support from an outside group, not the petition committee itself. There is also no language conveying an endorsement. Apparently, Respondent believes that its argument to the Court is bolstered by characterizing it as an endorsement.

Respondent also argues that Keep Hilliard Beautiful did not exist when the petition was circulated. This argument is both at odds with its position that adding the name is conveying an endorsement by a group and not supported by the record. The record shows that the petition committee members were informally calling themselves "Keep Hilliard Beautiful" at the time the petition was circulating. [Resp't Ex. 14, p. 7; Relators' Ex. G, paragraph 2]. Respondent's Merit Brief, at 5 and 20, incorrectly states that Relator Lambert stated in his testimony before council that "Keep Hilliard Beautiful" did not exist at the time of circulation, which is belied by Mr. Lambert's actual testimony. The committee name had not been "formally'

But, as Respondent explains on pp. 20-21 of its brief, the council disagrees. In any case, the fact that Respondent does not like the committee's name is not grounds for invalidating the petition.

established, but the committee was using the name on an informal working basis when the petition was circulated.[4]

Respondent argues that it has total discretion to decide if language has misleading tendencies. Obviously, the Court can appreciate how this puts the fox in charge of the henhouse. Any petition a council does not agree with could be rejected with no recourse. Respondent also asserts that it does not have to produce any evidence that someone was misled into signing the petition based on inclusion of the committee's name. This assertion is at odds with this Court's statement in *State ex rel. Polcyn v. Burkhart*, 33 Ohio St. 2d 7, 11, "Significantly, at no place in this litigation has it been argued that any petition signer has been misled by these errors."[5]

Respondent's cited cases regarding misleading petitions are also of no help. Each involve errors in the text of the proposal, the preamble or the

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[4] The committee later registered as a political action committee with the Franklin County Board of Elections [See, https://vote.franklincountyohio.gov/candidates/campaign-finance/reports.cfm?id=8563]. However, they were not required to officially register until they were ready to begin raising contributions for the upcoming election campaign. [See, R.C. 3517.10(D) - filing designation of treasurer prior to receiving contributions, and R. C. 3517.01(B)(5) definition of "contribution" as funds received to influence the results of an election.] There is nothing that prevents a group of citizens organizing informally beforehand and giving their group a name. Certainly, such activity is protected political association and speech under the Ohio and United States Constitutions.

[5] In another part of its Merit Brief, at 6, Respondent states that a citizen submitted a written statement to council explaining that he was "misled" at the time he signed the petition. However, this is not what his statement actually is. He never says that he was misled. The portion of his statement that Respondent does not quote in its brief is, "I have taken some time since signing the petition for the charter amendment to better understand the ramifications the amendment would have on our community. [See Resp't Ex. 12]. Further, there is no indication that his statement has anything to do with the name of the committee. Moreover, what is most telling is that this is the one and only written comment received from the citizens of Hilliard. [See, Resp't Ex. 15, p.10]. The two council transcripts introduced by Respondent also show that there was no verbal testimony by any citizen claiming that they were misled in signing the petition. [See, Resp't Ex. 14 and 15].

summary of the proposal. None have to do with inclusion of a committee name that the council does not agree with. In *State ex rel Hackworth v. Hughes*, 97 Ohio St. 3d 110, 2002-Ohio-5334, there were substantial issues based on the petitioners choosing to capitalize certain language in the text of the charter amendments in order to emphasize it. In *State ex rel. Bay Citizens for Safety v. City Council of Bay Village*, 8th Dist. Cuyahoga No. 91889, 2008-Ohio-4225, the preamble incorrectly stated that petition had been circulated and voted upon by the People of the City of Bay Village, a demonstrably false assertion. In *Markus v. Trumbull County Board of Elections*, 22 Ohio St. 2d 197 (1970), the description of the zoning change in the petition differed substantially from the zoning change that had been considered by the zoning commission and township trustees. Likewise, in *Shelly & Sands, Inc. v. Franklin County Bd. of Elections*, 12 Ohio St. 3d 140 (1984), the problem was the misleading nature of the description of the zoning change. In *City of Macedonia v. Summit County Bd. of Elections*, 9th Dist,, 1986 Ohio App. LEXIS 9645 (1986), the petition text misstated that city council had determined that the proposed rezoning to be in the best interests of the citizens, which had never happened.

Respondent is clearly grasping at straws in arguing that including the name of the committee is a legal defect and secondly that this defect was misleading to signers of the petition. In fact the argument is so specious that

it perhaps demonstrates concern by Respondent about passage of the proposed amendments if the voters are permitted to have their say. After all, the petition committee was able to quickly collect almost four times the number of required valid signatures. [Respondent Ex. 1 and 4].

III. CONCLUSION

For all of reasons set forth above, and consistent with this Court's duty to liberally construe these provisions in favor of the power reserved to the people and to permit rather than preclude the exercise of that power, Relators are entitled to the relief sought.[6] [*See, e.g., State ex rel. Oster v. Lorain Cty. Bd. of Elections*, 93 Ohio St.3d 480, 2001-Ohio-1605, ¶ 28.] Accordingly, Relators respectfully pray the Court to grant the following relief:

A. Issue a peremptory Writ of Mandamus ordering Respondent Hilliard City Council to submit the charter amendment question to the Franklin County Board of Elections for placement on the ballot within the time prescribed under Art. XVIII, § 8 of the Ohio Constitution, which includes the March 15, 2016 special election.

B. Issue a Writ of Mandamus ordering Respondent Hilliard City Council to submit the charter amendment question to the Franklin County Board of Elections for placement on the ballot within the time prescribed under Art. XVIII, § 8 of the Ohio Constitution, which includes the March 15, 2016 special election.

C. Issue an alternative writ or other Order submitting the charter amendment question to the Franklin County Board of Elections for

[6] Respondent makes the ludicrous assertion that the elements of mandamus are not satisfied because Relators could simply re-circulate the Charter Amendment Petition. Forcing Relators to undertake the time and expense of another petition effort does nothing to remedy Respondent's failure to undertake its mandatory duty to submit the charter amendment question to the electors.

placement on the ballot within the time prescribed under Art. XVIII, § 8 of the Ohio Constitution, which includes the March 15, 2016 special election.

D. Assess the costs of this action against Respondent;

E. Award Relators their attorneys' fees and expenses; and

F. Award such other relief as may be appropriate.

Respectfully submitted,

Mark A McGinnis

Donald J. McTigue (0022849)
Mark A. McGinnis (0076275)
J. Corey Colombo (0072398)
MCTIGUE & MCGINNIS LLC
545 East Town Street
Columbus, Ohio 43215
Tel: (614) 263-7000
Fax: (614) 263-7078

Counsel for Relators

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was sent via e-mail communication pursuant to S.Ct. Prac. R 12.08(C) to the following on this the 31st day of December, 2015:

JOSEPH R. MILLER, jrmiller@vorys.com

CHRISTOPHER L. INGRAM, clingram@vorys.com

CHRISTOPHER A. LAROCCO, calarocco@vorys.com

Mark A McGinnis

_____

Attorney at Law

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. LES CARRIER, ET AL.,

Relators,

v.

HILLIARD CITY COUNCIL,

Respondent.

Original Action in Mandamus

Expedited Election Matter Under S.CT.PRAC.R. 12.08

Cited Statutory Sections

CONSTITUTION OF THE STATE OF OHIO
Article XVIII MUNICIPAL CORPORATIONS

Oh. Const. Art. XVIII, § 9 (2014)

§ 9 Amendments to charter; submission; approval.

Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority. The submission of proposed amendments to the electors shall be governed by the requirements of section 8 as to the submission of the question of choosing a charter commission; and copies of proposed amendments may be mailed to the electors as hereinbefore provided for copies of a proposed charter, or pursuant to laws passed by the general assembly, notice of proposed amendments may be given by newspaper advertising. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the charter of the municipality. A copy of said charter or any amendment thereto shall be certified to the secretary of state, within thirty days after adoption by a referendum vote.

History:
Amended January 1, 1971.

CONSTITUTION OF THE STATE OF OHIO
Article XVIII MUNICIPAL CORPORATIONS

Oh. Const. Art. XVIII, § 14 (2014)

§ 14 Elections.

All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election.

History:
Adopted September 3, 1912.

Title 7: Municipal Corporations
Chapter 731: Organization
Initiative and Referendum

ORC Ann. 731.31 (2015)

§ 731.31 Presentation of petition.

Any initiative or referendum petition may be presented in separate parts, but each part of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure, and each part of any referendum petition shall contain the number and a full and correct copy of the title of the ordinance or other measure sought to be referred. Each signer of any such petition must be an elector of the municipal corporation in which the election, upon the ordinance or measure proposed by such initiative petition, or the ordinance or measure referred to by such referendum petition, is to be held. Petitions shall be governed in all other respects by the rules set forth in section 3501.38 of the Revised Code. In determining the validity of any such petition, all signatures which are found to be irregular shall be rejected, but no petition shall be declared invalid in its entirety when one or more signatures are found to be invalid except when the number of valid signatures is found to be less than the total number required by this section.

The petitions and signatures upon such petitions shall be prima facie presumed to be in all respects sufficient. No ordinance or other measure submitted to the electors of any municipal corporation, and receiving an affirmative majority of the votes cast thereon, shall be held ineffective or void on account of the insufficiency of the petitions by which such submission of the ordinance or measure was procured, nor shall the rejection, by a majority of the votes cast thereon, of any ordinance or other measure submitted to the electors of such municipal corporation, be held invalid for such insufficiency.

Ordinances proposed by initiative petition and referendums receiving an affirmative majority of the votes cast thereon, shall become effective on the fifth day after the day on which the board of elections certifies the official vote on such question.

History:
GC § 4227-4; 102 v 521, § 4; 103 v 211; 115 v 214; Bureau of Code Revision, 10-1-53; 125 v S 242 (Eff 1-1-54); 138 v H 1062. Eff 3-23-81.

Title 7: Municipal Corporations
Chapter 731: Organization
Initiative and Referendum

ORC Ann. 731.32 (2015)

§ 731.32 Copy of proposed ordinance or measure filed with auditor or clerk.

Whoever seeks to propose an ordinance or measure in a municipal corporation by initiative petition or files a referendum petition against any ordinance or measure shall, before circulating such petition, file a certified copy of the proposed ordinance or measure with the city auditor or the village clerk.

As used in this section, "certified copy" means a copy containing a written statement attesting that it is a true and exact reproduction of the original proposed ordinance or measure or of the original ordinance or measure.

History:
GC § 4227-6; 104 v 238; Bureau of Code Revision, Eff 10-1-53; 144 v H 192. Eff 10-10-91.

Title 35: Elections
Chapter 3517: Campaigns; Political Parties
Political Parties

ORC Ann. 3517.01 (2015)

§ 3517.01 Definitions; liability of campaign committee.

(A) (1) A political party within the meaning of Title XXXV of the Revised Code is any group of voters that meets either of the following requirements:

(a) Except as otherwise provided in this division, at the most recent regular state election, the group polled for its candidate for governor in the state or nominees for presidential electors at least three per cent of the entire vote cast for that office. A group that meets the requirements of this division remains a political party for a period of four years after meeting those requirements.

(b) The group filed with the secretary of state, subsequent to its failure to meet the requirements of division (A)(1)(a) of this section, a party formation petition that meets all of the following requirements:

(i) The petition is signed by qualified electors equal in number to at least one per cent of the total vote for governor or nominees for presidential electors at the most recent election for such office.

(ii) The petition is signed by not fewer than five hundred qualified electors from each of at least a minimum of one-half of the congressional districts in this state. If an odd number of congressional districts exists in this state, the number of districts that results from dividing the number of congressional districts by two shall be rounded up to the next whole number.

(iii) The petition declares the petitioners' intention of organizing a political party, the name of which shall be stated in the declaration, and of participating in the succeeding general election, held in even-numbered years, that occurs more than one hundred twenty-five days after the date of filing.

(iv) The petition designates a committee of not less than three nor more than five individuals of the petitioners, who shall represent the petitioners in all matters relating to the petition. Notice of all matters or proceedings pertaining to the petition may be served on the committee, or any of them, either personally or by registered mail, or by leaving such notice at the usual place of residence of each of them.

(2) No such group of electors shall assume a name or designation that is similar, in the opinion of the secretary of state, to that of an existing political party as to confuse or mislead the voters at an election.

(B) A campaign committee shall be legally liable for any debts, contracts, or expenditures incurred or executed in its name.

(C) Notwithstanding the definitions found in section 3501.01 of the Revised Code, as used in this section and sections 3517.08 to 3517.14, 3517.99, and 3517.992 of the Revised Code:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate under section 3517.081 of the Revised Code to receive contributions and make expenditures.

(2) "Campaign treasurer" means an individual appointed by a candidate under section 3517.081 of the Revised Code.

(3) "Candidate" has the same meaning as in division (H) of section 3501.01 of the Revised Code and also includes any person who, at any time before or after an election, receives contributions or makes expenditures or other use of contributions, has given consent for another to receive contributions or make expenditures or other use of contributions, or appoints a campaign treasurer, for the purpose of bringing about the person's nomination or election to public office. When two persons jointly seek the offices of governor and lieutenant governor, "candidate" means the pair of candidates jointly. "Candidate" does not include candidates for election to the offices of member of a county or state central committee, presidential elector, and delegate to a national convention or conference of a political party.

(4) "Continuing association" means an association, other than a campaign committee, political party, legislative campaign fund, political contributing entity, or labor organization, that is intended to be a permanent organization that has a primary purpose other than supporting or opposing specific candidates, political parties, or ballot issues, and that functions on a regular basis throughout the year. "Continuing association" includes organizations that are determined to be not organized for profit under subsection 501 and that are described in subsection 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code.

(5) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election. Any loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or of anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any campaign committee, political action committee, legislative campaign fund, political party, political contributing entity, or person other than the person to whom the services are rendered for the personal services of another person, that is made, received, or used by a state or county political party, other than moneys a

state or county political party receives from the Ohio political party fund pursuant to section 3517.17 of the Revised Code and the moneys an entity may receive under sections 3517.101, 3517.1012, and 3517.1013 of the Revised Code, shall be considered to be a "contribution" for the purpose of section 3517.10 of the Revised Code and shall be included on a statement of contributions filed under that section.

"Contribution" does not include any of the following:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker;

(d) Any gift given to an entity pursuant to section 3517.101 of the Revised Code;

(e) Any contribution as defined in section 3517.1011 of the Revised Code that is made, received, or used to pay the direct costs of producing or airing an electioneering communication;

(f) Any gift given to a state or county political party for the party's restricted fund under division (A)(2) of section 3517.1012 of the Revised Code;

(g) Any gift given to a state political party for deposit in a Levin account pursuant to section 3517.1013 of the Revised Code. As used in this division, "Levin account" has the same meaning as in that section.

(h) Any donation given to a transition fund under section 3517.1014 of the Revised Code.

(6) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election or of making a charitable donation under division (G) of section 3517.08 of the Revised Code. Any disbursement or use of a contribution by a state or county political party is an expenditure and shall be considered either to be made for the purpose of influencing the results of an election or to be made as a charitable donation under division (G) of section 3517.08 of the Revised Code and shall be reported on a statement of expenditures filed under section 3517.10 of the Revised Code. During the thirty days preceding a primary or general election, any disbursement to pay the direct costs of producing or airing a broadcast, cable, or satellite communication that refers to a clearly identified candidate shall be considered to be made for the purpose of influencing the results of that election and shall be reported as an expenditure or as an independent expenditure under section 3517.10 or 3517.105 of the Revised Code, as applicable, except that the information required to be reported regarding contributors for those expenditures or independent expenditures shall be the same as the information required to be reported under divisions (D)(1) and (2) of section 3517.1011 of the Revised Code.

As used in this division, "broadcast, cable, or satellite communication" and "refers to a clearly identified candidate" have the same meanings as in section 3517.1011 of the Revised Code.

(7) "Personal expenses" includes, but is not limited to, ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(8) "Political action committee" means a combination of two or more persons, the primary or major purpose of which is to support or oppose any candidate, political party, or issue, or to influence the result of any election through express advocacy, and that is not a political party, a campaign committee, a political contributing entity, or a legislative campaign fund. "Political action committee" does not include either of the following:

(a) A continuing association that makes disbursements for the direct costs of producing or airing electioneering communications and that does not engage in express advocacy;

(b) A political club that is formed primarily for social purposes and that consists of one hundred members or less, has officers and periodic meetings, has less than two thousand five hundred dollars in its treasury at all times, and makes an aggregate total contribution of one thousand dollars or less per calendar year.

(9) "Public office" means any state, county, municipal, township, or district office, except an office of a political party, that is filled by an election and the offices of United States senator and representative.

(10) "Anything of value" has the same meaning as in section 1.03 of the Revised Code.

(11) "Beneficiary of a campaign fund" means a candidate, a public official or employee for whose benefit a campaign fund exists, and any other person who has ever been a candidate or public official or employee and for whose benefit a campaign fund exists.

(12) "Campaign fund" means money or other property, including contributions.

(13) "Public official or employee" has the same meaning as in section 102.01 of the Revised Code.

(14) "Caucus" means all of the members of the house of representatives or all of the members of the senate of the general assembly who are members of the same political party.

(15) "Legislative campaign fund" means a fund that is established as an auxiliary of a state political party and associated with one of the houses of the general assembly.

(16) "In-kind contribution" means anything of value other than money that is used to

influence the results of an election or is transferred to or used in support of or in opposition to a candidate, campaign committee, legislative campaign fund, political party, political action committee, or political contributing entity and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate, committee, fund, party, or entity. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(17) "Independent expenditure" means an expenditure by a person advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. As used in division (C)(17) of this section:

(a) "Person" means an individual, partnership, unincorporated business organization or association, political action committee, political contributing entity, separate segregated fund, association, or other organization or group of persons, but not a labor organization or a corporation unless the labor organization or corporation is a political contributing entity.

(b) "Advocating" means any communication containing a message advocating election or defeat.

(c) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(d) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Except as otherwise provided in division (D) of section 3517.105 of the Revised

Code, made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(e) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(18) "Labor organization" means a labor union; an employee organization; a federation of labor unions, groups, locals, or other employee organizations; an auxiliary of a labor union, employee organization, or federation of labor unions, groups, locals, or other employee organizations; or any other bona fide organization in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment.

(19) "Separate segregated fund" means a separate segregated fund established pursuant to the Federal Election Campaign Act.

(20) "Federal Election Campaign Act" means the "Federal Election Campaign Act of 1971," 86 Stat. 11, 2 U.S.C.A. 431, et seq., as amended.

(21) "Restricted fund" means the fund a state or county political party must establish under division (A)(1) of section 3517.1012 of the Revised Code.

(22) "Electioneering communication" has the same meaning as in section 3517.1011 of the Revised Code.

(23) "Express advocacy" means a communication that contains express words advocating the nomination, election, or defeat of a candidate or that contains express words advocating the adoption or defeat of a question or issue, as determined by a final judgment of a court of competent jurisdiction.

(24) "Political committee" has the same meaning as in section 3517.1011 of the Revised Code.

(25) "Political contributing entity" means any entity, including a corporation or labor organization, that may lawfully make contributions and expenditures and that is not an individual or a political action committee, continuing association, campaign committee, political party, legislative campaign fund, designated state campaign committee, or state candidate fund. For purposes of this division, "lawfully" means not prohibited by any section of the Revised Code, or authorized by a final judgment of a court of competent jurisdiction.

History:

GC § 4785-61; 113 v 307(335), § 61; Bureau of Code Revision, 10-1-53; 133 v S 24 (Eff 10-30-69); 134 v S 460 (Eff 3-23-72); 135 v S 46 (Eff 7-23-74); 141 v H 639 (Eff 7-24-86); 141 v H 300 (Eff 9-17-86); 141 v H 428 (Eff 12-23-86); 143 v S 6 (Eff 10-30-89); 146 v S 8 (Eff 8-23-95); 146 v H 99 (Eff 8-23-95); 146 v S 9 (Eff 8-24-95); 147 v S 116 (Eff 12-9-97); 147 v S 134. Eff 7-13-98; 150 v H 1, § 1, eff. 3-31-05; 151 v S 115, § 1, eff. 4-26-05; 151 v H 3, § 1, eff. 5-2-06; 153 v H 5, § 1, eff. 9-10-10; 2013 HB 59, § 101.01, eff. Sept. 29, 2013; 2013 SB 193, § 1, eff. Feb. 5, 2014.

Title 35: Elections
Chapter 3517: Campaigns; Political Parties
Campaign Expenditures

ORC Ann. 3517.10 (2015)

§ 3517.10 Filing of statements of contributions and expenditures; designation of treasurer; prohibited contributions.

(A) Except as otherwise provided in this division, every campaign committee, political action committee, legislative campaign fund, political party, and political contributing entity that made or received a contribution or made an expenditure in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in this state shall file, on a form prescribed under this section or by electronic means of transmission as provided in this section and section 3517.106 of the Revised Code, a full, true, and itemized statement, made under penalty of election falsification, setting forth in detail the contributions and expenditures, not later than four p.m. of the following dates:

(1) The twelfth day before the election to reflect contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the twentieth day before the election;

(2) The thirty-eighth day after the election to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the seventh day before the filing of the statement;

(3) The last business day of January of every year to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the last day of December of the previous year;

(4) The last business day of July of every year to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the last day of June of that year.

A campaign committee shall only be required to file the statements prescribed under divisions (A)(1) and (2) of this section in connection with the nomination or election of the committee's candidate.

The statement required under division (A)(1) of this section shall not be required of any campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity that has received contributions of less than one thousand dollars and has made expenditures of less than one thousand dollars at the close of business on the twentieth day before the election. Those contributions and expenditures shall be reported in the statement

required under division (A)(2) of this section.

If an election to select candidates to appear on the general election ballot is held within sixty days before a general election, the campaign committee of a successful candidate in the earlier election may file the statement required by division (A)(1) of this section for the general election instead of the statement required by division (A)(2) of this section for the earlier election if the pregeneral election statement reflects the status of contributions and expenditures for the period twenty days before the earlier election to twenty days before the general election.

If a person becomes a candidate less than twenty days before an election, the candidate's campaign committee is not required to file the statement required by division (A)(1) of this section.

No statement under division (A)(3) of this section shall be required for any year in which a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file a postgeneral election statement under division (A)(2) of this section. However, a statement under division (A)(3) of this section may be filed, at the option of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity.

No campaign committee of a candidate for the office of chief justice or justice of the supreme court, and no campaign committee of a candidate for the office of judge of any court in this state, shall be required to file a statement under division (A)(4) of this section.

Except as otherwise provided in this paragraph and in the next paragraph of this section, the only campaign committees required to file a statement under division (A)(4) of this section are the campaign committee of a statewide candidate and the campaign committee of a candidate for county office. The campaign committee of a candidate for any other nonjudicial office is required to file a statement under division (A)(4) of this section if that campaign committee receives, during that period, contributions exceeding ten thousand dollars.

No statement under division (A)(4) of this section shall be required of a campaign committee, a political action committee, a legislative campaign fund, a political party, or a political contributing entity for any year in which the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file a postprimary election statement under division (A)(2) of this section. However, a statement under division (A)(4) of this section may be filed at the option of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity.

No statement under division (A)(3) or (4) of this section shall be required if the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity has no contributions that it has received and no expenditures that it has made since the last date reflected in its last previously filed statement. However, the campaign

committee, political action committee, legislative campaign fund, political party, or political contributing entity shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, on the date required in division (A)(3) or (4) of this section, as applicable.

The campaign committee of a statewide candidate shall file a monthly statement of contributions received during each of the months of July, August, and September in the year of the general election in which the candidate seeks office. The campaign committee of a statewide candidate shall file the monthly statement not later than three business days after the last day of the month covered by the statement. During the period beginning on the nineteenth day before the general election in which a statewide candidate seeks election to office and extending through the day of that general election, each time the campaign committee of the joint candidates for the offices of governor and lieutenant governor or of a candidate for the office of secretary of state, auditor of state, treasurer of state, or attorney general receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to equal or exceed ten thousand dollars and each time the campaign committee of a candidate for the office of chief justice or justice of the supreme court receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to exceed ten thousand dollars, the campaign committee shall file a two-business-day statement reflecting that contribution. Contributions reported on a two-business-day statement required to be filed by a campaign committee of a statewide candidate in a primary election shall also be included in the postprimary election statement required to be filed by that campaign committee under division (A)(2) of this section. A two-business-day statement required by this paragraph shall be filed not later than two business days after receipt of the contribution. The statements required by this paragraph shall be filed in addition to any other statements required by this section.

Subject to the secretary of state having implemented, tested, and verified the successful operation of any system the secretary of state prescribes pursuant to divisions (C)(6)(b) and (D)(6) of this section and division (H)(1) of section 3517.106 of the Revised Code for the filing of campaign finance statements by electronic means of transmission, a campaign committee of a statewide candidate shall file a two-business-day statement under the preceding paragraph by electronic means of transmission if the campaign committee is required to file a pre-election, postelection, or monthly statement of contributions and expenditures by electronic means of transmission under this section or section 3517.106 of the Revised Code.

If a campaign committee or political action committee has no balance on hand and no outstanding obligations and desires to terminate itself, it shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, with the official with whom it files a statement under division (A) of this section after filing a final statement of contributions and a final statement of expenditures, if contributions have been received or expenditures made since the period reflected in its last previously filed statement.

(B) Except as otherwise provided in division (C)(7) of this section, each statement required by division (A) of this section shall contain the following information:

(1) The full name and address of each campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity, including any treasurer of the committee, fund, party, or entity, filing a contribution and expenditure statement;

(2) (a) In the case of a campaign committee, the candidate's full name and address;

(b) In the case of a political action committee, the registration number assigned to the committee under division (D)(1) of this section.

(3) The date of the election and whether it was or will be a general, primary, or special election;

(4) A statement of contributions received, which shall include the following information:

(a) The month, day, and year of the contribution;

(b) (i) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity from whom contributions are received and the registration number assigned to the political action committee under division (D)(1) of this section. The requirement of filing the full address does not apply to any statement filed by a state or local committee of a political party, to a finance committee of such committee, or to a committee recognized by a state or local committee as its fund-raising auxiliary. Notwithstanding division (F) of this section, the requirement of filing the full address shall be considered as being met if the address filed is the same address the contributor provided under division (E)(1) of this section.

(ii) If a political action committee, political contributing entity, legislative campaign fund, or political party that is required to file campaign finance statements by electronic means of transmission under section 3517.106 of the Revised Code or a campaign committee of a statewide candidate or candidate for the office of member of the general assembly receives a contribution from an individual that exceeds one hundred dollars, the name of the individual's current employer, if any, or, if the individual is self-employed, the individual's occupation and the name of the individual's business, if any;

(iii) If a campaign committee of a statewide candidate or candidate for the office of member of the general assembly receives a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of two or more employees that exceeds in the aggregate one hundred dollars during any one filing period under division (A)(1), (2), (3), or (4) of this section, the full name of the employees' employer and the full name of the labor organization of which the employees are members, if any.

(c) A description of the contribution received, if other than money;

(d) The value in dollars and cents of the contribution;

(e) A separately itemized account of all contributions and expenditures regardless of the amount, except a receipt of a contribution from a person in the sum of twenty-five dollars or less at one social or fund-raising activity and a receipt of a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of employees if the contribution from the amount deducted from the wages and salary of any one employee is twenty-five dollars or less aggregated in a calendar year. An account of the total contributions from each social or fund-raising activity shall include a description of and the value of each in-kind contribution received at that activity from any person who made one or more such contributions whose aggregate value exceeded two hundred fifty dollars and shall be listed separately, together with the expenses incurred and paid in connection with that activity. A campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall keep records of contributions from each person in the amount of twenty-five dollars or less at one social or fund-raising activity and contributions from amounts deducted under section 3599.031 of the Revised Code from the wages and salary of each employee in the amount of twenty-five dollars or less aggregated in a calendar year. No continuing association that is recognized by a state or local committee of a political party as an auxiliary of the party and that makes a contribution from funds derived solely from regular dues paid by members of the auxiliary shall be required to list the name or address of any members who paid those dues.

Contributions that are other income shall be itemized separately from all other contributions. The information required under division (B)(4) of this section shall be provided for all other income itemized. As used in this paragraph, "other income" means a loan, investment income, or interest income.

(f) In the case of a campaign committee of a state elected officer, if a person doing business with the state elected officer in the officer's official capacity makes a contribution to the campaign committee of that officer, the information required under division (B)(4) of this section in regard to that contribution, which shall be filed together with and considered a part of the committee's statement of contributions as required under division (A) of this section but shall be filed on a separate form provided by the secretary of state. As used in this division:

(i) "State elected officer" has the same meaning as in section 3517.092 of the Revised Code.

(ii) "Person doing business" means a person or an officer of an entity who enters into one or more contracts with a state elected officer or anyone authorized to enter into contracts on behalf of that officer to receive payments for goods or services, if the payments total, in the

aggregate, more than five thousand dollars during a calendar year.

(5) A statement of expenditures which shall include the following information:

(a) The month, day, and year of the expenditure;

(b) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity to whom the expenditure was made and the registration number assigned to the political action committee under division (D)(1) of this section;

(c) The object or purpose for which the expenditure was made;

(d) The amount of each expenditure.

(C) **(1)** The statement of contributions and expenditures shall be signed by the person completing the form. If a statement of contributions and expenditures is filed by electronic means of transmission pursuant to this section or section 3517.106 of the Revised Code, the electronic signature of the person who executes the statement and transmits the statement by electronic means of transmission, as provided in division (H) of section 3517.106 of the Revised Code, shall be attached to or associated with the statement and shall be binding on all persons and for all purposes under the campaign finance reporting law as if the signature had been handwritten in ink on a printed form.

(2) The person filing the statement, under penalty of election falsification, shall include with it a list of each anonymous contribution, the circumstances under which it was received, and the reason it cannot be attributed to a specific donor.

(3) Each statement of a campaign committee of a candidate who holds public office shall contain a designation of each contributor who is an employee in any unit or department under the candidate's direct supervision and control. In a space provided in the statement, the person filing the statement shall affirm that each such contribution was voluntarily made.

(4) A campaign committee that did not receive contributions or make expenditures in connection with the nomination or election of its candidate shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, on the date required in division (A)(2) of this section.

(5) The campaign committee of any person who attempts to become a candidate and who, for any reason, does not become certified in accordance with Title XXXV of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, and who, at any time prior to or after an election, receives contributions or makes expenditures, or has given consent for another to receive contributions or make expenditures, for the purpose

of bringing about the person's nomination or election to public office, shall file the statement or statements prescribed by this section and a termination statement, if applicable. Division (C)(5) of this section does not apply to any person with respect to an election to the offices of member of a county or state central committee, presidential elector, or delegate to a national convention or conference of a political party.

(6) **(a)** The statements required to be filed under this section shall specify the balance in the hands of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity and the disposition intended to be made of that balance.

(b) The secretary of state shall prescribe the form for all statements required to be filed under this section and shall furnish the forms to the boards of elections in the several counties. The boards of elections shall supply printed copies of those forms without charge. The secretary of state shall prescribe the appropriate methodology, protocol, and data file structure for statements required or permitted to be filed by electronic means of transmission under division (A) of this section, divisions (E), (F), and (G) of section 3517.106, division (D) of section 3517.1011, division (B) of section 3517.1012, division (C) of section 3517.1013, and divisions (D) and (I) of section 3517.1014 of the Revised Code. Subject to division (A) of this section, divisions (E), (F), and (G) of section 3517.106, division (D) of section 3517.1011, division (B) of section 3517.1012, division (C) of section 3517.1013, and divisions (D) and (I) of section 3517.1014 of the Revised Code, the statements required to be stored on computer by the secretary of state under division (B) of section 3517.106 of the Revised Code shall be filed in whatever format the secretary of state considers necessary to enable the secretary of state to store the information contained in the statements on computer. Any such format shall be of a type and nature that is readily available to whoever is required to file the statements in that format.

(c) The secretary of state shall assess the need for training regarding the filing of campaign finance statements by electronic means of transmission and regarding associated technologies for candidates, campaign committees, political action committees, legislative campaign funds, political parties, or political contributing entities, for individuals, partnerships, or other entities, for persons making disbursements to pay the direct costs of producing or airing electioneering communications, or for treasurers of transition funds, required or permitted to file statements by electronic means of transmission under this section or section 3517.105, 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code. If, in the opinion of the secretary of state, training in these areas is necessary, the secretary of state shall arrange for the provision of voluntary training programs for candidates, campaign committees, political action committees, legislative campaign funds, political parties, or political contributing entities, for individuals, partnerships, and other entities, for persons making disbursements to pay the direct costs of producing or airing electioneering communications, or for treasurers of transition funds, as appropriate.

(7) Each monthly statement and each two-business-day statement required by division (A) of

this section shall contain the information required by divisions (B)(1) to (4), (C)(2), and, if appropriate, (C)(3) of this section. Each statement shall be signed as required by division (C)(1) of this section.

(D) (1) Prior to receiving a contribution or making an expenditure, every campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall appoint a treasurer and shall file, on a form prescribed by the secretary of state, a designation of that appointment, including the full name and address of the treasurer and of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity. That designation shall be filed with the official with whom the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file statements under section 3517.11 of the Revised Code. The name of a campaign committee shall include at least the last name of the campaign committee's candidate. If two or more candidates are the beneficiaries of a single campaign committee under division (B) of section 3517.081 of the Revised Code, the name of the campaign committee shall include at least the last name of each candidate who is a beneficiary of that campaign committee. The secretary of state shall assign a registration number to each political action committee that files a designation of the appointment of a treasurer under this division if the political action committee is required by division (A)(1) of section 3517.11 of the Revised Code to file the statements prescribed by this section with the secretary of state.

(2) The treasurer appointed under division (D)(1) of this section shall keep a strict account of all contributions, from whom received and the purpose for which they were disbursed.

(3) (a) Except as otherwise provided in section 3517.108 of the Revised Code, a campaign committee shall deposit all monetary contributions received by the committee into an account separate from a personal or business account of the candidate or campaign committee.

(b) A political action committee shall deposit all monetary contributions received by the committee into an account separate from all other funds.

(c) A state or county political party may establish a state candidate fund that is separate from an account that contains the public moneys received from the Ohio political party fund under section 3517.17 of the Revised Code and from all other funds. A state or county political party may deposit into its state candidate fund any amounts of monetary contributions that are made to or accepted by the political party subject to the applicable limitations, if any, prescribed in section 3517.102 of the Revised Code. A state or county political party shall deposit all other monetary contributions received by the party into one or more accounts that are separate from its state candidate fund and from its account that contains the public moneys received from the Ohio political party fund under section 3517.17 of the Revised Code.

(d) Each state political party shall have only one legislative campaign fund for each house of the general assembly. Each such fund shall be separate from any other funds or accounts of

that state party. A legislative campaign fund is authorized to receive contributions and make expenditures for the primary purpose of furthering the election of candidates who are members of that political party to the house of the general assembly with which that legislative campaign fund is associated. Each legislative campaign fund shall be administered and controlled in a manner designated by the caucus. As used in this division, "caucus" has the same meaning as in section 3517.01 of the Revised Code and includes, as an ex officio member, the chairperson of the state political party with which the caucus is associated or that chairperson's designee.

(4) Every expenditure in excess of twenty-five dollars shall be vouched for by a receipted bill, stating the purpose of the expenditure, that shall be filed with the statement of expenditures. A canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of division (D)(4) of this section.

(5) The secretary of state or the board of elections, as the case may be, shall issue a receipt for each statement filed under this section and shall preserve a copy of the receipt for a period of at least six years. All statements filed under this section shall be open to public inspection in the office where they are filed and shall be carefully preserved for a period of at least six years after the year in which they are filed.

(6) The secretary of state, by rule adopted pursuant to section 3517.23 of the Revised Code, shall prescribe both of the following:

(a) The manner of immediately acknowledging, with date and time received, and preserving the receipt of statements that are transmitted by electronic means of transmission to the secretary of state pursuant to this section or section 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code;

(b) The manner of preserving the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in the statements described in division (D)(6)(a) of this section. The secretary of state shall preserve the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in those statements for at least ten years after the year in which they are filed by electronic means of transmission.

(7) The secretary of state, pursuant to division (I) of section 3517.106 of the Revised Code, shall make available online to the public through the internet the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in all statements, all addenda, amendments, or other corrections to statements, and all amended statements filed with the secretary of state by electronic or other means of transmission under this section, division (B)(2)(b) or (C)(2)(b) of section 3517.105, or section 3517.106, 3517.1011, 3517.1012, 3517.1013, 3517.1014, or 3517.11 of the Revised Code. The secretary of state may remove the information from the internet after a reasonable

period of time.

(E) **(1)** Any person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity that makes a contribution in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in this state shall provide its full name and address to the recipient of the contribution at the time the contribution is made. The political action committee also shall provide the registration number assigned to the committee under division (D)(1) of this section to the recipient of the contribution at the time the contribution is made.

(2) Any individual who makes a contribution that exceeds one hundred dollars to a political action committee, political contributing entity, legislative campaign fund, or political party or to a campaign committee of a statewide candidate or candidate for the office of member of the general assembly shall provide the name of the individual's current employer, if any, or, if the individual is self-employed, the individual's occupation and the name of the individual's business, if any, to the recipient of the contribution at the time the contribution is made. Sections 3599.39 and 3599.40 of the Revised Code do not apply to division (E)(2) of this section.

(3) If a campaign committee shows that it has exercised its best efforts to obtain, maintain, and submit the information required under divisions (B)(4)(b)(ii) and (iii) of this section, that committee is considered to have met the requirements of those divisions. A campaign committee shall not be considered to have exercised its best efforts unless, in connection with written solicitations, it regularly includes a written request for the information required under division (B)(4)(b)(ii) of this section from the contributor or the information required under division (B)(4)(b)(iii) of this section from whoever transmits the contribution.

(4) Any check that a political action committee uses to make a contribution or an expenditure shall contain the full name and address of the committee and the registration number assigned to the committee under division (D)(1) of this section.

(F) As used in this section:

(1) **(a)** Except as otherwise provided in division (F)(1) of this section, "address" means all of the following if they exist: apartment number, street, road, or highway name and number, rural delivery route number, city or village, state, and zip code as used in a person's post-office address, but not post-office box.

(b) Except as otherwise provided in division (F)(1) of this section, if an address is required in this section, a post-office box and office, room, or suite number may be included in addition to, but not in lieu of, an apartment, street, road, or highway name and number.

(c) If an address is required in this section, a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may use the

business or residence address of its treasurer or deputy treasurer. The post-office box number of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may be used in addition to that address.

(d) For the sole purpose of a campaign committee's reporting of contributions on a statement of contributions received under division (B)(4) of this section, "address" has one of the following meanings at the option of the campaign committee:

(i) The same meaning as in division (F)(1)(a) of this section;

(ii) All of the following, if they exist: the contributor's post-office box number and city or village, state, and zip code as used in the contributor's post-office address.

(e) As used with regard to the reporting under this section of any expenditure, "address" means all of the following if they exist: apartment number, street, road, or highway name and number, rural delivery route number, city or village, state, and zip code as used in a person's post-office address, or post-office box. If an address concerning any expenditure is required in this section, a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may use the business or residence address of its treasurer or deputy treasurer or its post-office box number.

(2) "Statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, chief justice of the supreme court, or justice of the supreme court.

(3) "Candidate for county office" means a candidate for the office of county auditor, county treasurer, clerk of the court of common pleas, judge of the court of common pleas, sheriff, county recorder, county engineer, county commissioner, prosecuting attorney, or coroner.

(G) An independent expenditure shall be reported whenever and in the same manner that an expenditure is required to be reported under this section and shall be reported pursuant to division (B)(2)(a) or (C)(2)(a) of section 3517.105 of the Revised Code.

(H) (1) Except as otherwise provided in division (H)(2) of this section, if, during the combined pre-election and postelection reporting periods for an election, a campaign committee has received contributions of five hundred dollars or less and has made expenditures in the total amount of five hundred dollars or less, it may file a statement to that effect, under penalty of election falsification, in lieu of the statement required by division (A)(2) of this section. The statement shall indicate the total amount of contributions received and the total amount of expenditures made during those combined reporting periods.

(2) In the case of a successful candidate at a primary election, if either the total contributions

received by or the total expenditures made by the candidate's campaign committee during the preprimary, postprimary, pregeneral, and postgeneral election periods combined equal more than five hundred dollars, the campaign committee may file the statement under division (H)(1) of this section only for the primary election. The first statement that the campaign committee files in regard to the general election shall reflect all contributions received and all expenditures made during the preprimary and postprimary election periods.

(3) Divisions (H)(1) and (2) of this section do not apply if a campaign committee receives contributions or makes expenditures prior to the first day of January of the year of the election at which the candidate seeks nomination or election to office or if the campaign committee does not file a termination statement with its postprimary election statement in the case of an unsuccessful primary election candidate or with its postgeneral election statement in the case of other candidates.

(I) In the case of a contribution made by a partner of a partnership or an owner or a member of another unincorporated business from any funds of the partnership or other unincorporated business, all of the following apply:

(1) The recipient of the contribution shall report the contribution by listing both the partnership or other unincorporated business and the name of the partner, owner, or member making the contribution.

(2) In reporting the contribution, the recipient of the contribution shall be entitled to conclusively rely upon the information provided by the partnership or other unincorporated business, provided that the information includes one of the following:

(a) The name of each partner, owner, or member as of the date of the contribution or contributions, and a statement that the total contributions are to be allocated equally among all of the partners, owners, or members; or

(b) The name of each partner, owner, or member as of the date of the contribution or contributions who is participating in the contribution or contributions, and a statement that the contribution or contributions are to be allocated to those individuals in accordance with the information provided by the partnership or other unincorporated business to the recipient of the contribution.

(3) For purposes of section 3517.102 of the Revised Code, the contribution shall be considered to have been made by the partner, owner, or member reported under division (I)(1) of this section.

(4) No contribution from a partner of a partnership or an owner or a member of another unincorporated business shall be accepted from any funds of the partnership or other unincorporated business unless the recipient reports the contribution under division (I)(1) of this

section together with the information provided under division (I)(2) of this section.

(5) No partnership or other unincorporated business shall make a contribution or contributions solely in the name of the partnership or other unincorporated business.

(6) As used in division (I) of this section, "partnership or other unincorporated business" includes, but is not limited to, a cooperative, a sole proprietorship, a general partnership, a limited partnership, a limited partnership association, a limited liability partnership, and a limited liability company.

(J) A candidate shall have only one campaign committee at any given time for all of the offices for which the person is a candidate or holds office.

(K) (1) In addition to filing a designation of appointment of a treasurer under division (D)(1) of this section, the campaign committee of any candidate for an elected municipal office that pays an annual amount of compensation of five thousand dollars or less, the campaign committee of any candidate for member of a board of education except member of the state board of education, or the campaign committee of any candidate for township trustee or township fiscal officer may sign, under penalty of election falsification, a certificate attesting that the committee will not accept contributions during an election period that exceed in the aggregate two thousand dollars from all contributors and one hundred dollars from any one individual, and that the campaign committee will not make expenditures during an election period that exceed in the aggregate two thousand dollars.

The certificate shall be on a form prescribed by the secretary of state and shall be filed not later than ten days after the candidate files a declaration of candidacy and petition, a nominating petition, or a declaration of intent to be a write-in candidate.

(2) Except as otherwise provided in division (K)(3) of this section, a campaign committee that files a certificate under division (K)(1) of this section is not required to file the statements required by division (A) of this section.

(3) If, after filing a certificate under division (K)(1) of this section, a campaign committee exceeds any of the limitations described in that division during an election period, the certificate is void and thereafter the campaign committee shall file the statements required by division (A) of this section. If the campaign committee has not previously filed a statement, then on the first statement the campaign committee is required to file under division (A) of this section after the committee's certificate is void, the committee shall report all contributions received and expenditures made from the time the candidate filed the candidate's declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate.

(4) As used in division (K) of this section, "election period" means the period of time beginning on the day a person files a declaration of candidacy and petition, nominating petition,

or declaration of intent to be a write-in candidate through the day of the election at which the person seeks nomination to office if the person is not elected to office, or, if the candidate was nominated in a primary election, the day of the election at which the candidate seeks office.

(L) A political contributing entity that receives contributions from the dues, membership fees, or other assessments of its members or from its officers, shareholders, and employees may report the aggregate amount of contributions received from those contributors and the number of individuals making those contributions, for each filing period under divisions (A)(1), (2), (3), and (4) of this section, rather than reporting information as required under division (B)(4) of this section, including, when applicable, the name of the current employer, if any, of a contributor whose contribution exceeds one hundred dollars or, if such a contributor is self-employed, the contributor's occupation and the name of the contributor's business, if any. Division (B)(4) of this section applies to a political contributing entity with regard to contributions it receives from all other contributors.

History:
135 v S 46 (Eff 7-23-74); 136 v H 124 (Eff 9-19-75); 138 v H 1062 (Eff 3-23-81); 141 v H 639 (Eff 7-24-86); 141 v H 300 (Eff 9-17-86); 141 v H 524 (Eff 3-17-87); 141 v H 428 (Eff 12-23-86); 142 v H 708 (Eff 4-19-88); 146 v S 8 (Eff 8-23-95); 146 v H 99 (Eff 8-23-95); 147 v S 116 (Eff 12-9-97); 147 v S 134 (Eff 7-13-98); 148 v H 119 (Eff 12-22-99); 149 v H 445. Eff 12-23-2002; 150 v H 204, § 1, eff. 11-5-04; 150 v H 1, § 1, eff. 3-31-05; 151 v S 115, § 1, eff. 4-26-05; 151 v S 107, § 1, eff. 12-20-05; 151 v H 3, § 1, eff. 5-2-06; 153 v H 5, § 1, eff. 9-10-10; 2013 HB 59, § 101.01, eff. Sept. 29, 2013.