

IN THE SUPREME COURT OF OHIO

The Ohio Manufacturers' Association, et al.,	:	
	:	
Relators,	:	Case No. _____
	:	
v.	:	Original Action Under Article II,
	:	Section 1g of the Ohio Constitution
Ohioans for Drug Price Relief Act, et al.,	:	
	:	
Respondents.	:	

**APPENDIX 1
TO
CHALLENGE TO INITIATIVE PETITION
UNDER ARTICLE II, SECTION 1g OF THE OHIO CONSTITUTION**

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Exhibit No.

Affidavit of Matthew WalshA
Directive 2015-18B
Directive 2015-40C
Directive 2016-01D
Secretary of State’s February 4, 2016 Letter to General Assembly E
Secretary of State’s February 4, 2016 Certification of Petitions F
Example of the “permanent residence address” language on each part-petitionG

Respectfully submitted,

/s/ Anne Marie Sferra
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via personal service on

February 29, 2016 upon:

Hon. Jon Husted
Ohio Secretary of State
180 East Broad Street, 16th Floor
Columbus, Ohio 43215

Hon. Mike DeWine, Esq.
Ohio Attorney General
30 E. Broad Street, 14th Floor
Columbus, Ohio 43215

William S. Booth
1243 Wilson Drive
Dayton, Ohio 45402

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Donald J. McTigue, Esq.
McTigue & Colombo LLC
545 East Town Street
Columbus, Ohio 43215

/s/ Anne Marie Sferra
Anne Marie Sferra (0030855)

EXHIBIT A

Affidavit of Matthew Walsh

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

TRACY L. JONES, et al.,	:
	:
<i>Plaintiffs,</i>	: Case No. 2:16-cv-00038
	:
v.	: Judge Michael H. Watson
	:
OHIO SECRETARY OF STATE	: Magistrate Judge Norah McCann King
JON HUSTED, et al.,	:
	:
<i>Defendants.</i>	:

DECLARATION OF MATTHEW WALSH

I, Matthew Walsh, hereby declare that:

1. Since February 2014, I have served as Legislative Counsel for Ohio Secretary of State Jon Husted. Prior to my position as Legislative Counsel, I served as Elections Counsel for the Secretary from November 2012 to February 2014.
2. As Legislative Counsel for the Secretary of State, my job duties include assisting in lawsuits filed against the office and monitoring legislation introduced by the Ohio General Assembly. In my position as Elections Counsel, I frequently communicated with boards of elections on a variety of election related topics.
3. As counsel for the Secretary of State, I am familiar with Ohio's election laws.
4. In Ohio, petitioners attempting to receive consideration of an initiative petition must gather 91,677 signatures from valid electors. This number represents three percent of the total vote cast for the office of governor at the last gubernatorial election.
5. A review of the "Ohio Drug Price Relief Act" part-petitions found that over 90% of the signatures gathered for the initiative petition were collected at least six weeks prior to the December 22, 2015 filing of the part-petitions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct based on my personal knowledge.

Executed this 22 day of January 2016, in Columbus, Franklin County, Ohio.

A handwritten signature in cursive script, appearing to read "Matthew Walsh", written in black ink.

Matthew Walsh
Legislative Counsel

EXHIBIT B

Directive 2015-18



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
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www.OhioSecretaryofState.gov

DIRECTIVE 2015-18

September 29, 2015

To: All County Boards of Elections
Directors, Deputy Directors, and Board Members

Re: Instructions Regarding the Review, Examination, and Verification of the Initiative
Petition Proposing an Addition to the Ohio Revised Code (Fresh Start Act)

SUMMARY

This Directive provides instructions to county board of elections on the review, examination, and verification of signatures on a statewide petition proposing an addition to the Ohio Revised Code. Each board of elections must complete its review, examination, and verification consistent with the instructions outlined in this Directive and [Directive 2015-10](#) and return its certification and part-petitions to the Secretary of State's Office.

Because each board of elections has numerous tasks and deadlines related to its preparation for the upcoming general election – e.g., processing voter registrations, mailing absentee ballots, conducting in-person absentee voting, training precinct election officials, and performing logic and accuracy testing, etc., the deadline for boards to complete review and return certifications and part-petitions is noon on Friday, October 30, 2015.

PETITION SUBMITTED

On September 22, 2015, the Secretary of State's Office received a petition, pursuant to Article II, Section 1b of the Ohio Constitution, from a group of persons seeking to propose an addition to the Ohio Revised Code. Boards of elections must examine each part-petition in order to determine the number of qualified electors who signed.

CHECKING SIGNATURES ON THE PETITIONS

Please carefully read this Directive and the "Instructions for the Examination and Verification of the Petition" provided in [Directive 2015-10](#) before you examine the part-petitions sent to your county.¹

As the Instructions state, each county board of elections must process all new, valid voter registrations and changes of names and/or address to existing registrations received by the board or the Secretary of State's Office as of the date the petition was filed with the Secretary of State

¹ R.C. 3501.11(K).

(i.e., Tuesday, September 22, 2015) before verifying the signatures on the part-petitions.² These registrations are effective as of the date filed with the Secretary of State.³

Prior to verifying the validity of individual signatures contained on a part-petition, the board of elections must verify the validity of that part-petition. Check each part-petition to determine whether the circulator's statement on the last page of the part-petition has been properly completed. The entire part-petition is invalid if the circulator's statement is not completed as required by law.

PART-PETITION BELONGS TO ANOTHER COUNTY

If you receive a part-petition that belongs to another county, please follow the process outlined in the "Instructions for the Examination and Verification of the Petition" beginning on page 7 of [Directive 2015-10](#). **It is imperative that a copy of a part-petition belonging to another county is transmitted to the other county as quickly as possible for signature verification.**

FULFILLING PUBLIC RECORDS REQUESTS

Your board of elections may receive one or more public records requests for copies of the part-petitions. Boards should consult with their statutory legal counsel, the prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

SCANNING THE PETITIONS

After you have completed checking the signatures on the part-petitions, you should electronically scan the relevant pages of each part-petition (including at least the cover page, the pages containing signatures, and the page containing the circulator statement). A copy of the scanned images should be saved onto one or as many CDs, DVDs, thumb-drives, or other similar electronic media as may be necessary and a copy sent to the Secretary of State's Office along with the part petitions and certification form. You must keep an electronic copy of the images for your records.

CERTIFICATION AND RETURN OF THE PETITIONS

As soon as you finish verifying the signatures on your county's part-petitions, you must return your completed certification form. The certification form must be completed and submitted electronically via Elect Collect by clicking the "Submit" button. The certification form must also be saved and printed. The Director must sign the certification form and return the signed certification form to Laura Pietenpol via email to lpietenp@ohiosecretaryofstate.gov.

All certification forms must be received no later than noon on Friday, October 30, 2015.

² R.C. 3501.38(A); 3519.15.

³ R.C. 3501.38; 3503.19.

You also must return all part-petitions to the Secretary of State's Office, Elections Division, 180 East Broad Street, 15th Floor, Columbus, Ohio 43215, by the same date.

All part-petitions must be received by the Secretary of State's office no later than Friday, October 30, 2015.

If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Sincerely,


Jon Husted

EXHIBIT C

Directive 2015-40



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
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DIRECTIVE 2015-40

December 23, 2015

To: All County Boards of Elections
Directors, Deputy Directors, and Board Members

Re: Instructions Regarding the Review, Examination, and Verification of the Petition
Proposing an Initiated Statute (Ohio Drug Price Relief Act)

SUMMARY

This Directive provides instructions to county board of elections on the review, examination, and verification of signatures on the petition proposing an initiated statute.¹ Each board of elections must complete its review, examination, and verification consistent with the instructions outlined in this Directive and return its certification to the Secretary of State's Office no later than noon on December 30, 2015. Please note that the Secretary of State's Office is open until 5:00 p.m. on December 24, 2015, and county boards of elections are encouraged to return certification forms at any time prior to December 30, 2015.

PETITION SUBMITTED

The Secretary of State's Office received a petition for an initiated statute on Tuesday, December 22, 2015. Boards of elections must examine each part-petition in order to determine the number of qualified electors who signed it.

CHECKING SIGNATURES ON THE PETITIONS

Before checking any petition, the board must review the instructions contained in Chapter 11 of the [Election Official Manual \(Directive 2015-33\)](#) regarding the review of circulator's statements and signatures and marking signatures.

Prior to verifying the validity of individual signatures contained on a part-petition, the board of elections must verify the validity of that part-petition. Check each part-petition to determine whether the circulator's statement on the last page of the part-petition has been properly completed. The entire part-petition is invalid if the circulator's statement is not completed as required by law.

PART-PETITION BELONGS TO ANOTHER COUNTY

If you receive a part-petition that belongs to another county, please follow the process outlined below. It is imperative that a copy of a part-petition belonging to another county is transmitted to the other county as quickly as possible for signature verification.

¹ R.C. 3501.11(K).

In the event that a board receives a part-petition on which the majority of signatures on the part-petitions are in another county, that board of elections may not determine the validity of that part-petition or review the signatures contained on it. Instead, it must forward the original part-petition to the other county following the steps below and utilize the two spreadsheets provided and return them in the envelopes provided when all part-petitions are returned to the Secretary of State's Office:

1. Part-Petitions Sent Spreadsheet (Original Part-Petition(s))
2. Part-Petitions Received Spreadsheet (Emailed or Faxed Part-Petition(s))

If a board of elections receives a part-petition(s) for another county, it should follow the steps below to send a copy of it to the correct county:

1. Contact the Director or Deputy Director at the other county board by phone to notify him or her that your board will be forwarding a copy of a part-petition(s) and determine if it should be emailed or faxed.
2. Log the transfer of the part-petition(s) being sent on the "Part-Petitions Sent" spreadsheet.
3. Send the copy of the part-petition(s) via either email or fax as agreed to.
4. Return the original part-petition(s) with the "Part-Petitions Sent" spreadsheet in the envelope provided and marked as such. When the board returns its checked part-petitions to the Secretary of State's Office, place this envelope on top of the checked part-petitions so it can be easily located and retrieved from the box.

If a board receives a part-petition from another county:

1. Log the part-petition(s) that the board received on the "Part-Petitions Received" spreadsheet.
2. Process the part-petition(s).
3. Return the emailed or faxed part-petition(s) with the "Part-Petitions Received" spreadsheet in the envelope provided and marked as such. When the board returns its checked part-petitions to the Secretary of State's Office, place this envelope on top of the checked part-petitions so it can be easily located and retrieved from the box.

Note: Even if a board does not send a part-petition(s) to another county and/or does not receive a copy of a part-petition from another county, the board must mark the box (X) in the bottom right hand corner of the spreadsheet and place it in the correct envelope. When the board returns its checked part-petitions to the Secretary of State's Office, place both envelopes on top of the checked part-petitions so they can be easily located and retrieved from the box.

FULFILLING PUBLIC RECORDS REQUESTS

Your board of elections may receive one or more public records requests for copies of the part-petitions. Boards should consult with their statutory legal counsel, the prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

SCANNING THE PETITIONS

After you have completed checking the signatures on the part-petitions, you should electronically scan the relevant pages of each part-petition (including at least the cover page, the pages containing signatures, and the page containing the circulator statement). A copy of the scanned images should be saved onto one or as many CDs, DVDs, thumb-drives, or other similar electronic media as may be necessary and a copy sent to the Secretary of State's Office along with the part petitions and certification form. You must keep an electronic copy of the images for your records.

CERTIFICATION AND RETURN OF THE PETITIONS

As soon as you finish verifying the signatures on your county's part-petitions, you must return your completed certification form. The certification form must be completed and submitted electronically via Elect Collect by clicking the "Submit" button. The certification form must also be saved and printed. The Director must sign the certification form and return the signed certification form to Emily Bright via email to Ebright@ohiosecretaryofstate.gov.

All certification forms must be received by NOON on December 30, 2015.

After you have sent your certification form to Emily Bright, you must return all part-petitions to the Secretary of State's Office, Elections Division, 180 East Broad Street, 15th Floor, Columbus, Ohio 43215, via a trackable delivery method, no later than Monday, January 4, 2016.

All part-petitions must be received by the Secretary of State's Office no later than Monday, January 4, 2016.

If you have any questions concerning this Directive, please contact the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Sincerely,


Jon Husted

EXHIBIT D

Directive 2016-01



Jon Husted

Ohio Secretary of State

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DIRECTIVE 2016-01

January 04, 2016

To: All County Boards of Elections
Directors, Deputy Directors, and Board Members

Re: Re-Review of Ohio Drug Price Relief Act Part-Petitions

BACKGROUND

It has come to this Office's attention that several boards of elections have approved part-petitions on which it appears that a person other than the signer of the petition or the circulator may have, contrary to Ohio law, removed one or more signer's name from the part-petition prior to it being filed with the appropriate election official (i.e., striking a signature). Additionally, it appears that some circulators may have pre-affixed the number of signatures they purportedly witnessed prior to actually circulating the petition, potentially calling into question how many signatures the circulator properly witnessed and attested to in his or her circulator statement.

STRIKING A SIGNATURE

State law clearly restricts removal of a petition signer's name from a part-petition except in the following, limited circumstances:

- "The circulator of a petition may, before filing it in a public office, strike from it any signature the circulator does not wish to present as a part of the petition,"¹; and
- "Any signer of a petition or an attorney in fact acting pursuant to section 3501.382 of the Revised Code on behalf of a signer may remove the signer's signature from that petition at any time before the petition is filed in a public office by striking the signer's name from the petition."²

These provisions of law exist to protect the integrity of the elections process and the circulator, who is required to attest under penalty of election falsification that the circulator witnessed every signature and that he or she believes all of the signatures witnessed are genuine and affixed by qualified electors. Most importantly, however, the witness and attestation requirements serve to protect the registered Ohio voters exercising their right under the state constitution to petition state government (in this case, to propose a state law for consideration by the General Assembly) from having their signature improperly removed from a part-petition.

¹ R.C. 3501.38(G).

² R.C. 3501.38(H).

Reviewing a large cross-section of part-petitions from across the state has revealed that a strikingly similar method of eliminating a petition signer's name exists across an alarmingly large number of part-petitions, thus raising a question of fact whether someone other than the petition signer or circulator may have illegally removed a petition signer's signature from part-petitions.

More specifically, it appears that this same or similar method of signature elimination (i.e., a thick, bold stroke of black ink) was used on part-petitions circulated by different individuals, some of whom were paid by different petition circulating firms. If true, a board of elections could conclude that there is sufficient evidence that a part-petition bearing such a bold strike-through was used to remove a signature contrary to Ohio law.

PRE-AFFIXING THE NUMBER OF SIGNATURES WITNESSED ON A CIRCULATOR STATEMENT

Ohio law requires every circulator of a part-petition to complete a statement affirmed under penalty of election falsification indicating the number of signatures contained on that part-petition, and that the circulator witnessed the affixing of every signature he or she reported thereon.³ This provision is "a substantial, reasonable requirement"⁴ and functions to prevent at least two types of petition fraud: (1) fraud resulting from signatures being placed on a part-petition after the circulator has executed the affirmation, and (2) fraud resulting from a circulator executing the affirmation with a number that is close to, or corresponds with, the number of pre-printed blank lines on the part-petition and subsequently leaving it in a public location or distributing it serially to friends and family to sign without the circulator being present to witness signatures.

The Ohio Supreme Court has accorded flexibility to circulators, providing that "...arithmetic errors will be tolerated, but only if the error does not promote fraud."⁵ The relevant example in the Election Official Manual recognizes that "arithmetic errors" may occur:

The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition. If the number of signatures reported in the statement is equal to or greater than the total number of signatures not crossed out on the part-petition, then the board does not reject the part-petition because of the inconsistent signature numbers.⁶

By their nature, however, "arithmetic errors" should be isolated, unintentional oversights.

³ R.C. 3501.38(E)(1).

⁴ *State ex rel. Loss v. Bd. of Elections of Lucas Cty.*, 29 Ohio St. 2d 233 (1972).

⁵ *State ex rel. Citizens For Responsible Taxation v. Scioto Cty. Bd. of Elections*, 65 Ohio St. 3d 167 (1992), interpreting *Loss*, Id.

⁶ [Ohio Election Official Manual, Chapter 11, page 9](#), discussing *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139 (2005).

The “over-reporting of signatures” (e.g., a circulator statement purporting to witness 28 signatures on a part-petition bearing only two signatures) is so strikingly prevalent in this submission that the suggestion that unintentional “arithmetic errors” are to blame strains credibility. This cannot be the result envisioned by case law; otherwise the exception would swallow the rule.

INSTRUCTIONS

Ohio law⁷ vests authority in the boards of elections to determine the validity of signatures contained on part-petitions of proposed initiated statutes. It is ultimately the Secretary of State, however, who must “determine and certify to the sufficiency of those petitions.”⁸

As such, my office is returning all part petitions to the boards of elections to conduct a re-review to determine whether or not the evidence on the part petitions themselves in each county is such that the board determines a signature was improperly removed in violation of R.C. 3501.38(G) and/or (H) or that the circulator’s statement is invalid under R.C. 3501.38(E)(1).

Boards of elections must complete this re-review, including any evidentiary hearings that they may believe necessary to complete their duties, and re-certify their findings to the Secretary of State’s Office no later than January 29, 2016. Boards of elections must follow the other relevant instructions of [Directive 2015-40](#) as a part of their re-review and re-certification process.

If you have any questions regarding this Directive, please contact the Secretary of State’s elections counsel assigned to your county at (614) 466-2585. Questions regarding issuing and serving subpoenas and/or conducting a lawful evidentiary hearing should be directed to the board’s legal counsel, the county’s prosecuting attorney.

Sincerely,


Jon Husted

⁷ R.C. 3501.11(K) and 3519.15.

⁸ R.C. 3501.05(K).

EXHIBIT E

February 4, 2016 Letter to the General Assembly



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
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February 4, 2016

The Honorable Cliff Rosenberger
Speaker, Ohio House of Representatives
77 South High St., 14th Floor
Columbus, Ohio 43215

The Honorable Keith Faber
President, Ohio Senate
Statehouse, 2nd Floor
Columbus, Ohio 43215

The Honorable Fred Strahorn
Minority Leader, Ohio House of Representatives
77 South High St., 14th Floor
Columbus, Ohio 43215

The Honorable Joe Schiavoni
Minority Leader, Ohio Senate
Statehouse, 3rd Floor
Columbus, Ohio 43215

Re: Ohio Drug Price Relief Act Proposed Initiated Statute

Dear Speaker Rosenberger, President Faber, and Minority Leaders Strahorn and Schiavoni:

Pursuant to Article II, Section 1b, I am transmitting, effective today, the full text of the Ohio Drug Price Relief Act (DPRA) proposed law to the Ohio General Assembly for its consideration.

However, I do so with reservations.

Despite having gathered the vast majority of their signatures by mid-November 2015, petitioners waited until December 22, 2015 to file with my office, pursuant to Article 2, Section 1b of the Ohio Constitution, an initiative petition purporting to contain 171,205 signatures proposing an addition to the Ohio Revised Code. The next day, I forwarded the part-petitions to the county boards of elections for review. Because petitioners waited so long to file their petitions, I instructed the county boards of election to complete their review no later than December 30, 2015—an uncommonly quick turn-around time.

Subsequently, my office became aware of an unprecedented quantity of suspicious “strikethroughs” of signatures on the part-petitions and other factual circumstances suggesting improper, potentially fraudulent circulator attestations—evidence that I simply cannot ignore. To clarify, this does not appear to be a case of just a few “irregularities,” or “math errors,” or random “strikethroughs” in a few, isolated counties across the state.

Rather, an initial review uncovered that a strikingly similar method of crossing out a petition signer’s name (a bold, black marker) existed on an alarmingly large number of part-petitions in virtually every county in the state. Add to that what appeared to be a widespread, intentional effort to permit circulators to over-report the number of signatures they actually witnessed by claiming to witness as many signatures as there are lines on the petition form when the part-petition actually contained only a few signatures, thereby skirting the requirement that a circulator actually witness each signature and *then* write down the exact number of signatures witnessed.

Consequently, based on my authority as Chief Elections Officer of the state, and my statutory responsibility to “determine and certify to the sufficiency” of statewide petitions¹, I issued Directive 2016-01 and instructed all 88 county boards of elections to conduct a more thorough review of all part-petitions, suggesting evidentiary hearings in consultation with their county prosecutors, and report their findings by January 29, 2016.

A number of counties did conduct a thoughtful review of the petitions circulated in their counties according to the Directive and some conducted quasi-judicial hearings to elicit testimony from petition circulation management companies and petition circulators. The sworn testimony they have shared paints a picture of how the laws protecting the integrity of the sacred right to petition one’s government were abused in this instance.

In my opinion, the Cuyahoga County Board of Elections produced the most sufficient and probative evidence in their review of the part-petitions. Cuyahoga County’s evidence included sworn testimony from Ms. Pamela Lauter of Ohio Petitioning Partners, LLC, who referred to a purging process called “purging the deck” to improperly strike the signatures of others, undertaken primarily at the behest of the petition company PCI Consultants, Inc.

According to Ms. Lauter:

- *“PCI was the head contractor for the State of Ohio,” explaining that PCI Consultants, Inc. has instructed them to strike signatures on petitions prior to filing, usually with a black washable marker.*
- *“... it's called purging the deck.”*
- *“So someone other than the circulator was striking the petitions?” “That would be me... Yes.”*

¹ R.C. 3501.05(K).

The political action committee (PAC) supporting this petition effort (Ohioans for Fair Drug Prices) underscores Ms. Lauter's contention that PCI Consultants, Inc., a California company, is, indeed, the head contractor in the State of Ohio, under whose direction all the other petitioning companies involved in this petition effort operated. According to campaign finance details filed last week, Ohioans for Fair Drug Prices paid \$743,473.20 to PCI Consultants, Inc. (out of a total \$799,941.95) for signature gathering. There were no other petition companies on their report.

PCI Consultants, Inc. website bills them as the "largest and most successful full service petition and field management firm in the country." Indeed they earned nearly \$750,000 in Ohio alone for this effort. In a message to prospective customers, PCI boldly admits that they "...actively cross off all invalid signatures by hand" with their own "proprietary database system."²

I believe the evidence confirms my suspicion that, at some high level of this campaign, the order was given to strike thousands of petition signatures—ignoring Ohio laws that exist to protect the integrity of the elections process and to safeguard the right of the Ohio voter whose choice it is to sign in support of an initiative, and who may not want his or her name illegally removed from a petition.

Ohio law is clear that (1) ONLY the signer of a petition (or the signer's designated attorney-in-fact³) or the circulator of a petition may remove a petition signer's name from a part-petition⁴, and (2) it is the duty of election officials, not a petition company, to determine whether a signature is valid.⁵ Ohio law further provides that no part-petition is properly verified if it appears on the face thereof, or is made to appear by satisfactory evidence, that the statement is altered by erasure, interlineation, or otherwise, or that the statement is false in any respect.⁶

Based on the reliable, substantive evidence my office has received from Cuyahoga County, I am invalidating all the signatures on every part-petition that was circulated by the petition companies DRW Campaigns, LLC and Ohio Petitioning Partners, LLC in Cuyahoga County. It is unlikely that these improper petition practices by DRW and OPP under the direction of PCI were limited only to those petitions circulated in Cuyahoga County. Indeed, Ms. Lauer testified that she performed the same interlineation activity in other counties. Absent similar sworn testimony before those county boards of elections, I lack sufficient evidence to invalidate part-petitions beyond those in Cuyahoga County where the testimony was actually presented.

² Interestingly, petitioners could have jeopardized their own efforts by illegally striking signatures. One county prosecutor reported in a letter submitted to me along with their number of certified signatures that only 79% of the stricken signatures were truly invalid.

³ R.C. 3501.382.

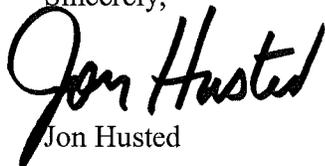
⁴ R.C. 3501.38(G) and (H).

⁵ R.C. 3501.05(K), R.C. 3501.11(K).

⁶ R.C. 3519.06.

Nevertheless, as mentioned above, pursuant to Ohio Constitution Article II, Section 1b, the petition proposing the Ohio Drug Price Relief Act Initiated Statute is hereby transmitted as of this day to the General Assembly with 96,936 valid signatures.

Sincerely,


Jon Husted

Enclosure

cc: Brad Young, House Clerk
Vince Keeran, Senate Clerk

FULL TEXT OF LAW

Be it Enacted by the People of the State of Ohio that the following chapter and section are added to Title I of the Revised Code.

Chapter 194: Drug Price Relief

Section 194.01

(A) Title.

This Act shall be known as "The Ohio Drug Price Relief Act" (the "Act").

(B) Findings and Declarations.

The People of the State of Ohio hereby find and declare all of the following:

- (1) Prescription drug costs have been, and continue to be, one of the greatest drivers of rising health care costs in Ohio.
- (2) Nationally, prescription drug spending increased more than 800 percent between 1990 and 2013, making it one of the fastest growing segments of health care.
- (3) Spending on specialty medications, such as those used to treat HIV/AIDS, Hepatitis C, and cancers, are rising faster than other types of medications. In 2014 alone, total spending on specialty medications increased by more than 23 percent.
- (4) The pharmaceutical industry's practice of charging inflated drug prices has resulted in pharmaceutical company profits exceeding those of even the oil and investment banking industries.
- (5) Inflated drug pricing has led to drug companies lavishing excessive pay on their executives.
- (6) Excessively priced drugs continue to be an unnecessary burden on Ohio taxpayers that ultimately results in cuts to health care services and providers for people in need.
- (7) Although Ohio has engaged in efforts to reduce prescription drug costs through rebates, drug manufacturers are still able to charge the State more than other government payers for the same medications, resulting in a dramatic imbalance that must be rectified.
- (8) If Ohio is able to pay the same prices for prescription drugs as the amounts paid by the United States Department of Veterans Affairs, it would result in significant savings to Ohio and its taxpayers. This Act is necessary and appropriate to address these public concerns.

(C) Purposes and Intent.

The People of the State of Ohio hereby declare the following purposes and intent in enacting this Act:

- (1) To enable the State of Ohio to pay the same prices for prescription drugs as the prices paid by the United States Department of Veterans Affairs, thus rectifying the imbalance among government payers.
- (2) To enable significant cost savings to Ohio and its taxpayers for prescription drugs, thus helping to stem the tide of rising health care costs in Ohio.
- (3) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

(D) Drug Pricing.

- (1) Notwithstanding any other provision of law and insofar as may be permissible under federal law, neither the State of Ohio, nor any state department, agency or other state entity, including, but not limited to, the Ohio Department of Aging, the Ohio Department of Health, the Ohio Department of Insurance, the Ohio Department of Jobs and Family Services, and the Ohio Department of Medicaid, shall enter into any agreement with the manufacturer of any drug for the purchase of a prescribed drug or agree to pay, directly or indirectly, for a prescribed drug, unless the net cost of the drug, inclusive of cash discounts, free goods, volume discounts, rebates, or any other discounts or credits, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (2) The price ceiling described in subsection (1) above also shall apply to all programs where the State of Ohio or any state department, agency or other state entity is the ultimate payer for the drug, even if it did not purchase the drug directly. This includes, but is not limited to, the Ohio Best Rx Program and the Ohio HIV Drug Assistance Program. In addition to agreements for any cash discounts, free goods, volume discounts, rebates, or any other discounts or credits already in place for these programs, the responsible department, agency or entity shall enter into additional agreements with drug manufacturers for further price reductions so that the net cost of the drug, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (3) All state departments, agencies and other state entities that enter into one or more agreements with the manufacturer of any drug for the purchase of prescribed drugs or agreement to pay directly or indirectly for prescribed drugs shall implement this section no later than July 1, 2017.
- (4) Each such department, agency or other state entity, may adopt administrative rules to implement the provisions of this section and may seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this section.
- (5) The General Assembly shall enact any additional laws and the Governor shall take any additional actions required to promptly carry out the provisions of this section.

(E) Liberal Construction.

This Act shall be liberally construed to effectuate its purpose.

(F) Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. If this Act and another law are approved by the voters at the same election with one or more conflicting provisions and this Act receives fewer votes, the non-conflicting provisions of this Act shall go into effect.

(G) Legal Defense.

If any provision of this Act is challenged in court, it shall be defended by the Attorney General of Ohio. The People of Ohio, by enacting this Act, hereby declare that the committee of individuals

responsible for the circulation of the petition proposing this Act ("the Proponents") have a direct and personal stake in defending this Act from constitutional or other challenges. In the event of a challenge, any one or more of the Act's Proponents shall be entitled to assert their direct and personal stake by defending the Act's validity in any court of law, including on appeal. The Proponents shall be indemnified by the State of Ohio for their reasonable attorney's fees and expenses incurred in defending the validity of the challenged Act. In the event that the Act or any of its provisions or parts are held by a court of law, after exhaustion of any appeals, to be unenforceable as being in conflict with other statutory or constitutional provisions, the Proponents shall be jointly and severally liable to pay a civil fine of \$10,000 to the State of Ohio, but shall have no other personal liability to any person or entity.

EXHIBIT F

February 4, 2016 Certification of Petitions



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

***Via Electronic Mail and
FedEx Overnight Letter***

February 4, 2016

Donald J. McTigue, Esq.
McTigue & McGinnis LLC
545 East Town Street
Columbus, Ohio 43215

Dear Mr. McTigue:

As attorney of record for William S. Booth, Daniel L. Darland, Tracy L. Jones and Latonya D. Thurman, collectively the committee to represent petitioners proposing an addition to the Ohio Revised Code (the "Committee"), please be advised of the following:

The requirements of Sections 1b and 1g, Article II of the Ohio Constitution require that petitioners gather valid signatures equal to at least 3% of the total vote cast for the office of governor at the last gubernatorial election (91,677 valid signatures), and that in at least 44 of the 88 Ohio counties, petitioners gather valid signatures equal to at least 1.5% of the total vote cast for the office of governor in that county at the last gubernatorial election. Pursuant to Sections 1b and 1g, Article II of the Ohio Constitution and sections 3501.05(K) and 3519.16 of the Ohio Revised Code, the petition the Committee filed with this office on December 22, 2015 contains a total of 96,936 valid signatures on behalf of the Initiated Statute and signatures from 47 counties meet or exceed 1.5% of the total number of votes cast for the office of governor in the respective counties at the last gubernatorial election. The Constitutional requirements are thereby fully satisfied. Accordingly, the Initiated Statute will be transmitted to the General Assembly pursuant to Section 1b of the Ohio Constitution.

If you have any questions about this certification, please contact Carrie Kuruc, Senior Elections Counsel, at (614) 466-2585.

Sincerely,


Jon Husted

cc: Committee members

EXHIBIT G

Example of “Permanent Residence Address” Language on each Part-Petition

Number: 000018

County: Crawford

14

948

INITIATIVE PETITION

Law Proposed by Initiative Petition First to be Submitted to the General Assembly.

TITLE

2/3

Ohio Drug Price Relief Act

909128

①
009

SUMMARY

The Act would enact Section 194.01 of the Ohio Revised Code to require that notwithstanding any other provision of law and in so far as permissible under federal law, the State of Ohio shall not enter into any agreement for the purchase of prescription drugs or agree to pay, directly or indirectly, for prescription drugs, including where the state is the ultimate payer, unless the net cost is the same or less than the lowest price paid for the same drug by the U. S. Department of Veterans Affairs. Among other provisions, the Act also:

- Sets forth the title of the Act as "The Ohio Drug Price Relief Act."
- Sets forth Findings and Declarations and Purposes and Intent of the Act.
- Sets forth factors in determining "net cost."
- Authorizes state departments, agencies and other state entities to adopt administrative rules to implement the provisions of the Act.
- Provide that the Act shall liberally construed to effectuate its purpose.
- Provide that if any provision of the Act is held to be invalid, the remaining provisions shall remain in effect.
- Provide that if the Act is challenged in court, it shall be defended by the Attorney General.
- Declare that the committee of individuals responsible for circulation of the petition ("the proponents") have a direct and personal stake in defending the Act and any one or more of them may do so in court if challenged. Provide that the proponents shall be indemnified by the state for their reasonable attorney's fees and expenses in defending against a legal challenge to the Act. Provide that the proponents shall be jointly and severally liable to pay a civil fine of \$10,000 to the state if the Act or any of its provisions are held by a court to be unenforceable, but shall have no other personal liability.
- Provide that in the event that the Act and another law are adopted by the voters at the same election and contain conflicting provisions and the Act received less votes, the non-conflicting provisions of the Act shall take effect.
- Require the General Assembly to enact any additional laws and the Governor to take any additional actions required to promptly implement the Act.

14

CERTIFICATION OF ATTORNEY GENERAL

Without passing upon the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon the Attorney General's Office under Section 3519.01(A) of the Ohio Revised Code, I hereby certify that the summary is a fair and truthful statement of the proposed law.

MIKE DeWINE
Ohio Attorney General
August 3, 2015

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

William S. Booth
1243 Wilson Dr.
Dayton, Ohio 45402

Daniel L. Darland
3811 N. Main St.
Dayton, Ohio 45405

Tracy L. Jones
5903 Bear Creek Dr.
Bedford Heights, Ohio 44146

Latonya D. Thurman
2618 N. Cassady Ave.
Columbus, Ohio 43219

NOTICE

Whoever knowingly signs this petition more than once; except as provided in section 3501.382 of the Revised Code, signs a name other than one's own on this petition; or signs this petition when not a qualified voter, is liable to prosecution.

MUST USE ADDRESS ON FILE WITH BOARD OF ELECTIONS

(Sign with ink. Your name, residence, and date of signing must be given.)

Signature	County	Township	Rural Route or other Post office Address	Month / Day / Year
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(Voters who do not live in a municipal corporation should fill in the information called for by headings printed above.)

(Voters who reside in municipal corporations should fill in the information called for by headings printed below.)

Signature	County	City or Village	Street and Number	Ward/Precinct	Month / Day / Year
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1. Signature	[Redacted]				
Address on file with the Board of Election	[Redacted]				
City/Village/Township	County	Zip Code	Street and Number	Ward/Precinct	Month / Day / Year
Riverside	Crawford	44820			10/24/15

2. Signature	Print First Name	Initial		
[Signature]	Matthew			
	Print Last Name			
	Cline			
Address on file with the Board of Election				
155 Easton Way #5				
City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
Galion		44833	Crawford	10-23-15

3. Signature	Print First Name	Initial		
[Signature]	Gwen			
	Print Last Name			
	Yaver			
Address on file with the Board of Election				
611 Ridge Ave				
City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
Bucyrus		44820	Crawford	10-24-15

4. Signature	Print First Name	Initial		
[Signature]	Kenneth	R		
	Print Last Name			
	Peever			
Address on file with the Board of Election				
611 Ridge Ave				
City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
Bucyrus		44820	Crawford	10-24-15

5. Signature	Print First Name	Initial		
[Signature]	Andrew			
	Print Last Name			
	Hawes			
Address on file with the Board of Election				
512 N. Thomas St.				
City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
Crestline		44827	Crawford	10/24/15

6. Signature	Print First Name	Initial		
[Signature]	Kelly			
	Print Last Name			
	Mckee			
Address on file with the Board of Election				
338 S. Street Rd				
City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
Galion			Crawford	10-24-15

7. Signature	Print First Name	Initial		
[Signature]	Melinda			
	Print Last Name			
	Digebow			
Address on file with the Board of Election				
7400 St Rd 96W				
City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
Crestline	0	04	Crawford	10/24/15

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Signature	County	City or Village	Street and Number	Ward/Precinct	Month / Day / Year
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8. Signature: *Karen Kindinger*

Print First Name: *KAREN* Initial:

Print Last Name: *Kindinger*

Address on file with the Board of Election: *810 N Clark Blvd*

City/Village/Township: *Crestline* Ward/Precinct: Zip Code: *44827* County: *Crawford* Date of Signing: *10/24/15*

9. Signature: *Dennis Davis*

Print First Name: *Dennis* Initial:

Print Last Name: *DAVIS*

Address on file with the Board of Election: *353 CARMEL AVE*

City/Village/Township: *GALION* Ward/Precinct: Zip Code: *44833* County: *CRAWFORD* Date of Signing: *10-25-15*

10. Signature: *E. Foust*

Print First Name: *ELIZABETH* Initial: *A*

Print Last Name: *Foust*

Address on file with the Board of Election: *218 Third Ave*

City/Village/Township: *Galion* Ward/Precinct: Zip Code: *44833* County: *Crawford* Date of Signing: *10-25-15*

11. Signature: *Roger E. Bond*

Print First Name: *Roger E. Bond* Initial:

Print Last Name: *Bond*

Address on file with the Board of Election: *200 Third Ave*

City/Village/Township: *GALION* Ward/Precinct: Zip Code: *44833* County: *Crawford* Date of Signing: *10-25-15*

12. Signature: *Toni Thomas*

Print First Name: *Toni* Initial:

Print Last Name: *Thomas*

Address on file with the Board of Election: *9753 Co Rd 38*

City/Village/Township: *Galion* Ward/Precinct: Zip Code: *44833* County: *Crawford/Morrow* Date of Signing: *10-25-15*

13. Signature: *Weldon A. Swartz*

Print First Name: *Weldon* Initial:

Print Last Name: *Swartz*

Address on file with the Board of Election: *2304 Beck Rd.*

City/Village/Township: *Crestline* Ward/Precinct: Zip Code: *44827* County: *Crawford* Date of Signing: *10-26-15*

14. Signature: *Kaylynn Pennington*

Print First Name: *Kaylynn* Initial:

Print Last Name: *Pennington*

Address on file with the Board of Election: *1192 Poe Rd*

City/Village/Township: *Bucyrus* Ward/Precinct: Zip Code: *44820* County: *Crawford* Date of Signing: *10-26-15*

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NR
B

15. Signature	Print First Name mackenzie	Initial
<i>Mackenzie Harwick</i>	Print Last Name Garrick	

Address on file with the Board of Election
922 S. Walnut St

City/Village/Township Byrus	Ward/Precinct	Zip Code 44820	County Crawford	Date of Signing 10-27-15
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16. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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17. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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18. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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19. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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20. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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21. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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22. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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23. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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24. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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25. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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26. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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27. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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28. Signature	Print First Name	Initial
	Print Last Name	

Address on file with the Board of Election

City/Village/Township	Ward/Precinct	Zip Code	County	Date of Signing
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FULL TEXT OF LAW

Be it Enacted by the People of the State of Ohio that the following chapter and section are added to Title I of the Revised Code.

Chapter 194: Drug Price Relief

Section 194.01

(A) Title.

This Act shall be known as "The Ohio Drug Price Relief Act" (the "Act").

(B) Findings and Declarations.

The People of the State of Ohio hereby find and declare all of the following:

- (1) Prescription drug costs have been, and continue to be, one of the greatest drivers of rising health care costs in Ohio.
- (2) Nationally, prescription drug spending increased more than 800 percent between 1990 and 2013, making it one of the fastest growing segments of health care.
- (3) Spending on specialty medications, such as those used to treat HIV/AIDS, Hepatitis C, and cancers, are rising faster than other types of medications. In 2014 alone, total spending on specialty medications increased by more than 23 percent.
- (4) The pharmaceutical industry's practice of charging inflated drug prices has resulted in pharmaceutical company profits exceeding those of even the oil and investment banking industries.
- (5) Inflated drug pricing has led to drug companies lavishing excessive pay on their executives.
- (6) Excessively priced drugs continue to be an unnecessary burden on Ohio taxpayers that ultimately results in cuts to health care services and providers for people in need.
- (7) Although Ohio has engaged in efforts to reduce prescription drug costs through rebates, drug manufacturers are still able to charge the State more than other government payers for the same medications, resulting in a dramatic imbalance that must be rectified.
- (8) If Ohio is able to pay the same prices for prescription drugs as the amounts paid by the United States Department of Veterans Affairs, it would result in significant savings to Ohio and its taxpayers. This Act is necessary and appropriate to address these public concerns.

(C) Purposes and Intent.

The People of the State of Ohio hereby declare the following purposes and intent in enacting this Act:

- (1) To enable the State of Ohio to pay the same prices for prescription drugs as the prices paid by the United States Department of Veterans Affairs, thus rectifying the imbalance among government payers.
- (2) To enable significant cost savings to Ohio and its taxpayers for prescription drugs, thus helping to stem the tide of rising health care costs in Ohio.
- (3) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

(D) Drug Pricing.

- (1) Notwithstanding any other provision of law and insofar as may be permissible under federal law, neither the State of Ohio, nor any state department, agency or other state entity, including, but not limited to, the Ohio Department of Aging, the Ohio Department of Health, the Ohio Department of Insurance, the Ohio Department of Jobs and Family Services, and the Ohio Department of Medicaid, shall enter into any agreement with the manufacturer of any drug for the purchase of a prescribed drug or agree to pay, directly or indirectly, for a prescribed drug, unless the net cost of the drug, inclusive of cash discounts, free goods, volume discounts, rebates, or any other discounts or credits, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (2) The price ceiling described in subsection (1) above also shall apply to all programs where the State of Ohio or any state department, agency or other state entity is the ultimate payer for the drug, even if it did not purchase the drug directly. This includes, but is not limited to, the Ohio Best Rx Program and the Ohio HIV Drug Assistance Program. In addition to agreements for any cash discounts, free goods, volume discounts, rebates, or any other discounts or credits already in place for these programs, the responsible department, agency or entity shall enter into additional agreements with drug manufacturers for further price reductions so that the net cost of the drug, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (3) All state departments, agencies and other state entities that enter into one or more agreements with the manufacturer of any drug for the purchase of prescribed drugs or agreement to pay directly or indirectly for prescribed drugs shall implement this section no later than July 1, 2017.
- (4) Each such department, agency or other state entity, may adopt administrative rules to implement the provisions of this section and may seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this section.
- (5) The General Assembly shall enact any additional laws and the Governor shall take any additional actions required to promptly carry out the provisions of this section.

(E) Liberal Construction.

This Act shall be liberally construed to effectuate its purpose.

(F) Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. If this Act and another law are approved by the voters at the same election with one or more conflicting provisions and this Act receives fewer votes, the non-conflicting provisions of this Act shall go into effect.

(G) Legal Defense.

If any provision of this Act is challenged in court, it shall be defended by the Attorney General of Ohio. The People of Ohio, by enacting this Act, hereby declare that the committee of individuals responsible for the circulation of the petition proposing this Act ("the Proponents") have a direct and personal stake in defending this Act from constitutional or other challenges. In the event of a challenge, any one or more of the Act's Proponents shall be entitled to assert their direct and personal stake by defending the Act's validity in any court of law, including on appeal. The Proponents shall be indemnified by the State of Ohio for their reasonable attorney's fees and expenses incurred in defending the validity of the challenged Act. In the event that the Act or any of its provisions or parts are held by a court of law, after exhaustion of any appeals, to be unenforceable as being in conflict with other statutory or constitutional provisions, the Proponents shall be jointly and severally liable to pay a civil fine of \$10,000 to the State of Ohio, but shall have no other personal liability to any person or entity.

Pamela Demski

STATEMENT OF CIRCULATOR

~~I, Dane Price~~

, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of 28 electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by

DRW Campaigns, Inc.

3549 Dort Hwy

Flint Mi. 48507

(Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

I further declare under penalty of election falsification that I witnessed the affixing of every signature to the foregoing petition paper, that all signers were to the best of my knowledge and belief qualified to sign, and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

Pamela Demski

(Signed)

1801 Nebraska Ave

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

Flint

City, Village or Township

MI 48506

State

Zip Code

**WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY
OF A FELONY OF THE FIFTH DEGREE.**