

IN THE SUPREME COURT OF OHIO

The Ohio Manufacturers' Association, *et al.*, :
:
Relators, : Case No. 2016-0313
:
v. : **Original Action under Article II,**
: **Section 1g of the Ohio Constitution**
Ohioans for Drug Price Relief Act, *et al.*, :
:
Respondents. :

OHIO SECRETARY OF STATE'S MEMORANDUM IN OPPOSITION TO
PETITION COMMITTEE RESPONDENTS' MOTION FOR RECONSIDERATION

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Ohio Secretary of State Jon Husted*

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**OHIO SECRETARY OF STATE’S MEMORANDUM IN OPPOSITION TO
PETITION COMMITTEE RESPONDENTS’ MOTION FOR RECONSIDERATION**

Pursuant to S.Ct.Prac.R. 18.03, Respondent Ohio Secretary of State Jon Husted opposes the Petition Committee Respondents’ motion for reconsideration. For the reasons set forth below in the attached memorandum, the Secretary respectfully asks the Court to deny the Petition Committee’s motion.

Respectfully submitted,

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Ohio Attorney General

s/ Steven T. Voigt

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MEMORANDUM IN OPPOSITION TO PETITION COMMITTEE'S MOTION

I. INTRODUCTION

There has been a final decision on the merits. *OMA* contemplated numerous motions and filings, months of discovery, and merits briefs from each party. This Court had the facts, the issues, and the arguments before it. The Court provided the Petition Committee Respondents with straightforward directions to gather additional signatures and submit their Proposed Initiative. There must be finality in that decision.

The Petition Committee's motion for reconsideration seeks to do what this Court and the rules prohibit—re-arguing completed litigation in a motion for reconsideration. There has been no intervening change in the law and there is no other reason to re-open *OMA*. Disagreement with a portion of the *OMA* holding does not warrant reconsideration. Movants' motion should be denied.

There are additional reasons to deny the motion. The Proposed Initiative was transmitted to the General Assembly on February 4, 2016. Because of *OMA*, however, that transmission should not have occurred because the Proposed Initiative did not have a sufficient number of signatures. The Court set forth a straightforward schedule for the Petition Committee to cure its deficiency: collect 5,044 valid signatures by August 25, 2016, file those with the Secretary of State, and, if there are a sufficient number of valid signatures, the Secretary is then to transmit the Proposed Initiative to the General Assembly.

The Court should deny the Petition Committee's motion for reconsideration.

II. STATEMENT OF FACTS

Relators the Ohio Manufacturers' Association, the Ohio Chamber of Commerce, the Pharmaceutical Research and Manufacturers of America, Keith A. Lake, and Ryan R. Ausburger brought this original action as a challenge to the proposed Drug Price Relief Act ("Proposed

Initiative”). Over the course of nearly six months, numerous motions have been filed, months of discovery completed, merits briefs filed, and then this Court issued a decision.

The Court invalidated over 10,000 signatures because two different circulators did not provide proper permanent addresses and because there was widespread over-counting of signatures in the circulator attestations on the part-petitions. *Ohio Mfrs. Assn., et al. v. Ohioans for Drug Price Relief Act, et al.*, Slip Opinion No. 2016-Ohio-5377, ¶ 46 (“*OMA*”). The Court held that after removing the invalid part-petitions, movants were 5,044 signatures under the requirement set forth in Article II, Section 1b of the Ohio Constitution to have their Proposed Initiative transmitted. Because of this deficiency, the Court held:

{¶ 46} * * * The petition therefore contained 86,633 valid signatures, which means it was short of the 91,677 signatures required by 5,044 signatures.

{¶ 47} Pursuant to Article II, Section 1g of the Ohio Constitution, the committee has until Thursday, August 25, 2016 (ten days from the date of this order), to submit a sufficient number of valid signatures to the secretary of state. If the secretary of state certifies enough valid signatures, then he shall resubmit the initiative to the General Assembly, in accordance with the terms of Ohio Constitution, Article II, Section 1b.

Id., ¶¶ 46-47.

The Court gave the Petition Committee ten days to gather the necessary signatures to cure the deficiency of the Proposed Initiative. *Id.*, ¶ 47. If, at the conclusion of this ten-day supplemental period, the Petition Committee submits more than 5,044 valid signatures, the Proposed Initiative would then have a sufficient number of signatures to be transmitted to the General Assembly. *Id.*; *see also* Ohio Constitution, Article II, Section 1b.

III. ARGUMENT

A. The Petition Committee’s Motion Re-Argues The Case.

Motions for reconsideration of Ohio Supreme Court decisions are disfavored. Supreme Court Practice Rule 18.02(B) expressly states that such a motion is not permitted for

“reargument of the case.” The Court “only correct[s] decisions which, upon reflection, are deemed to have been made in error.” *State ex rel. Shemo v. Mayfield Hts.*, 96 Ohio St.3d 379, 2002-Ohio-4905, 775 N.E.2d 493, ¶ 5, quoting *Buckeye Community Hope Found. v. Cuyahoga Falls*, 82 Ohio St.3d 539, 541, 697 N.E.2d 181 (1998).

This Court specifically held that it will not “grant reconsideration when a movant seeks merely to reargue the case at hand.” *Dublin City Schs. Bd. of Edn. v. Franklin Cty. Bd. of Revision*, 139 Ohio St.3d 212, 2014-Ohio-1940, 11 N.E.3d 222, ¶ 9; *see also Wells Fargo Bank, N.A. v. Smith*, 10th Dist. Franklin No. 09AP-559, 2009-Ohio-6576, ¶ 12. Final decisions of this Court are meant to “put to rest” “disputes.” *Toledo Edison Co. v. City of Bryan*, 91 Ohio St.3d 1233, 1234, 742 N.E.2d 655, 656 (2001) (Pfeifer, J., concurring).

Here, the Petition Committee appears to claim that the Court overlooked provisions of the Ohio Constitution that are, in fact, found throughout the Court’s decision (Ohio Constitution, Article II, Sections 1b and 1g). Moreover, the Court was quite clear in the relief that it granted that the Petition Committee now challenges:

{¶ 47} Pursuant to Article II, Section 1g of the Ohio Constitution, the committee has until Thursday, August 25, 2016 (ten days from the date of this order), to submit a sufficient number of valid signatures to the secretary of state. If the secretary of state certifies enough valid signatures, then he shall resubmit the initiative to the General Assembly, in accordance with the terms of Ohio Constitution, Article II, Section 1b.

OMA, Slip Opinion No. 2016-Ohio-5377, ¶ 47. The rule against re-hashing one’s legal positions in a motion for reconsideration should apply here and the Movants’ motion should be denied. The *OMA* decision should be the end this litigation.

B. The Petition Committee Needs To Cure The Deficiency In Signatures Before The Proposed Initiative Can Be Transmitted To The General Assembly.

Article II, Section 1b of the Ohio Constitution requires the Secretary to transmit to the General Assembly an initiated statute petition *only* “[w]hen” it is verified to have been signed by

three percent of electors in the most recent gubernatorial election. Ohio Constitution, Article II, Section 1b. The Constitution also requires that the signatures supporting the initiative equal one and a half percent of the electors from the most recent gubernatorial election in at least 44 separate counties. Ohio Constitution, Article II, Section 1g. Until those requirements are met, the Secretary of State cannot transmit the initiative to the General Assembly.

When the signatures of an initiative “are determined to be insufficient, ten additional days shall be allowed for the filing of additional signatures to such petition.” *Id.* If that deficiency is cured within the ten-day supplemental period and there are a sufficient number of valid signatures, the Secretary of State is to transmit the initiative to the General Assembly. Ohio Constitution, Article II, Section 1b.

The Petition Committee filed with the Secretary of State approximately 10,029 petitions purporting to contain 171,205 signatures. *OMA*, Slip Opinion 2016-Ohio-5377, ¶ 3. Following review by the boards, the boards and the Secretary determined that many of the signatures were not valid. The Secretary transmitted the Proposed Initiative to the General Assembly with 96,936 valid signatures. *Id.*, ¶ 7. In its decision on the merits in this case, the Court held that 10,303 of the 96,936 signatures were invalid and should not have been verified. *Id.*, ¶ 46. This caused the Proposed Initiative to be deficient by 5,044 signatures. *Id.*

Pursuant to the Ohio Constitution, a deficient petition cannot be transmitted to the General Assembly. Ohio Constitution, Article II, Sections 1b and 1g. The first transmission to the General Assembly was not valid because the Proposed Initiative was deficient and a deficient initiative cannot be transmitted. Accordingly, this Court held that the deficient signature-count needed to be supported by supplemental signatures. The Court held that if a sufficient number of

valid supplemental signatures are submitted, the Secretary of State is required to transmit the Proposed Initiative to the General Assembly. *Id.*, ¶ 47.

There is no error in the remedy ordered by this Court. The prior signature-count was insufficient and the Court has provided the Petition Committee with a ten-day window to gather supplemental signatures. There is no reason to re-litigate these issues that have already been decided.

C. The Court's Directions Provide a Straightforward Path Forward.

OMA set a straightforward schedule. By August 25, 2016, the Petition Committee was required to file with the Secretary 5,044 valid signatures to cure the current deficiency in the signature-tally supporting the Proposed Initiative. *OMA*, Slip Opinion No. 2016-Ohio-5377, ¶ 47. The Petition Committee filed a purported 19,619 signatures on August 25, 2016. *See* Exhibit A, Affidavit of Carrie Kuruc, ¶ 4. The part-petitions have been transmitted to the respective boards of elections to conduct the review of those signatures, which must be completed by 11 a.m. on September 2, 2016. *Id.* If the Secretary and the boards of elections are able to certify that there are a sufficient number of valid supplemental signatures, the Secretary must transmit the Proposed Initiative to the General Assembly. *Id.* If the General Assembly passes the Proposed Initiative in an amended form or does not choose to act on the Proposed Initiative in the subsequent four-month window, the Petition Committee will enter the 90-day supplementary signature period and be responsible for filing an additional 91,677 signatures with the Secretary of State. Ohio Constitution, Article II, Section 1b. Finally, if there are enough valid supplementary signatures, the Proposed Initiative will be placed on the ballot. *Id.* This is a straightforward schedule, without confusion, that allows the process to unfold and gives the Petition Committee the appropriate opportunity as set forth under the Constitution to gather valid signatures.

Not only is the schedule a clear path to moving forward, it would be inequitable to skip the step of sending the Proposed Initiative to the General Assembly. If the Proposed Initiative is sent to the General Assembly again, this certification will be unencumbered by the questions related to the validity of the past submission. Exhibit A, Affidavit of Carrie Kuruc, ¶ 5, Attachment A. Regardless, the General Assembly's opportunity to review the Proposed Initiative, once it has been determined to meet constitutional specifications, should not be left out of the schedule. Whether the General Assembly chooses to act is beside the point. What matters under the Constitution is that the General Assembly has an opportunity to act on a proposed initiative that is properly before it if it chooses to do so.

IV. CONCLUSION

The Secretary of State of Ohio opposes the Petition Committee Respondents' Motion for Reconsideration and respectfully asks the Court to deny the motion.

Respectfully submitted,

MICHAEL DEWINE (0009181)
Ohio Attorney General

s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)*

**Counsel of Record*

Principal Assistant Attorney General

BRODI J. CONOVER (0092082)

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Counsel for Respondent

Ohio Secretary of State Jon Husted

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by first class mail via the U.S. Postal Service on August 26, 2016, upon the following:

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Daniel L. Darland, Tracy L. Jones, and
Latonya Thurman*

s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Principal Assistant Attorney General

Exhibit A

IN THE SUPREME COURT OF OHIO

STATE ex rel. TRACY L. JONES, et al.	:	
	:	
<i>Relators,</i>	:	Case No. 2016-1235
	:	
v.	:	Original Action in Mandamus
	:	
SECRETARY OF STATE JON HUSTED,	:	
	:	
<i>Respondent.</i>	:	

AFFIDAVIT OF CARRIE KURUC

I, Carrie Kuruc, having been duly cautioned and sworn, hereby attest to the following:

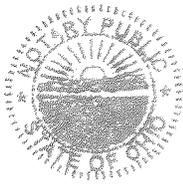
1. The following statements are made based on personal knowledge.
2. I serve as Senior Elections Counsel in the Ohio Secretary of State's office. In this role, I coordinate a staff of Elections Counsel that provides election law support to Ohio's 88 county boards of elections. Boards of elections regularly contact the staff with questions about elections law provisions and processes.
3. I was one of the employees in the office assigned to receive the Drug Price Relief Act part-petitions filed on August 25, 2016 pursuant to this Court's decision in *Ohio Mfrs. Assn., et al. v. Ohioans for Drug Price Relief Act, et al.*, Slip Opinion No. 2016-Ohio-5377.
4. On August 25, 2016, the Petition Committee filed a purported 19,619 signatures with the office. The part-petitions are currently in the process of being transmitted to the respective boards of elections so that they can conduct their review of the signatures. The boards review must be completed by 11 a.m. on September 2, 2016.
5. On February 4, 2016, the Secretary transmitted the full text of the Drug Price Relief Act to the Ohio General Assembly for its consideration. On this same day, the Secretary sent a letter to the General Assembly explaining he was transmitting the proposed law "with reservations." A true and exact copy of this letter is attached as Attachment "A."

6. Further affiant sayeth naught.



Carrie Kuruc

Sworn to and subscribed in my presence this 26th day of August, 2016.



BRANDI R. LASER SESKES, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.



Notary Public



Jon Husted
Ohio Secretary of State

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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.

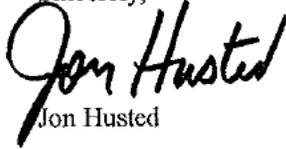
⁴ R.C. 3501.38(G) and (H).

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.