CLIENT ALERTS & INSIGHTS

Ohioans to Vote on Statewide Ballot Issues

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For an “Off-Year” in Ohio’s election cycle, this November election day is shaping up to be a very busy one. While Issue 1 and Issue 2 made it the ballot in different ways, both could have a lasting impact on Ohioans of all ages.

Issue 1 - The Right to Reproductive Freedom with Protections for Health and Safety

The original 1851 Ohio constitution had 16 articles and 169 sections. The present document has 19 articles and 225 sections. To date, there have been 170 amendments. Issue 1, if approved by the voters, would add Section 22 to Article I of the Ohio Constitution. The proposed section, labeled as the Right to Reproductive Freedom with Protections for Health and Safety, would restore the right to an abortion in Ohio following the United States Supreme Court’s *Dobbs* decision in June 2022, returning to the citizens of each state the right to regulate or prohibit abortion. An Ohio statute currently bans abortion after a fetal heartbeat is detected, which is generally thought to be around the sixth week of pregnancy, but the statute has been temporarily blocked by a Hamilton County judge. The Ohio Supreme Court is currently reviewing the ruling to determine whether the abortion-provider plaintiffs in that case had standing to assert the rights of their patients. The merits of the injunction are not at issue in that appeal.

The adoption of State Issue 1 would essentially negate the current statute regardless of the Ohio Supreme Court’s ultimate decision in the case now before it. If passed, it would establish an individual state constitutional right to "make and carry out one’s own reproductive decisions” including decisions on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care, and abortion. The proposed amendment would also prohibit the state from interfering with that right unless it “demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care.”

Significantly, the proposed amendment would allow the state to restrict abortion after fetal viability--defined as "the point in a pregnancy when, in the professional judgment of the pregnant patient's treating physician, the fetus has a significant likelihood of survival outside the uterus with reasonable measures"-unless “in the professional judgment of the pregnant patient’s treating physician it is necessary to protect the pregnant patient’s life or health.”

Opponents of Issue 1 argue that it would create a right to abortion-on-demand, eliminate the state’s health and safety standards for pregnant women, and invalidate parental notification and consent laws. Opponents believe that the Ohio General Assembly should continue to have the authority to regulate in the arena of abortion and reproductive healthcare.

Issue I was placed on the ballot through the constitutional initiative process whereby the issue's proponents collected at least 442,958-10% of those who voted in the last gubernatorial election-valid signatures of "electors," *i.e.,* register voters, on petitions setting forth a summary and the text of the proposed amendment. In November, if at least 50% plus one of those voting on the proposal votes in the affirmative, the amendment will become effective thirty days after the election. In the August 2023 special election, the voters rejected a proposed constitutional amendment that would have increased the required voting threshold for approving a proposed citizen-initiated constitutional amendment to 60%.

The full text of State Issue 1 can be found HERE.

Issue 2 - An Act to Control and Regulate Adult Use Cannabis

Issue 2, also known as An Act to Control and Regulate Adult Use Cannabis, is a proposed citizen-initiated statute to legalize and regulate the recreational use of marijuana for anyone 21-years-old and up. If approved, adults would have the right to buy and possess 2.5 ounces of the substance and to cultivate six or less cannabis plants from their homes, or 12 if the household has two or more adults. The proposed statute would impose a 10% tax on marijuana purchases in addition to a county sales tax rate, and the funds raised from the tax would be spent in accordance with the following: administrative fees fund (3%), substance use and addiction fund (25%), host community cannabis facilities fund (36%), cannabis social equity and jobs fund (36%). In accordance with Ohio's Home Rule protections, the proposal would allow local governments to adopt a resolution, by a majority vote, to prohibit or limit the number of adult use operators within their jurisdiction, with protections for existing medical facilities. Passage would make Ohio the 24th state to legalize cannabis for adult use. The proposed statute would also expand access to medical marijuana.

Like Issue 1, if at least 50% plus one of those voting on the proposal in November vote in the affirmative, the amendment will become effective thirty days after the election. However, because Issue 2 is an initiated *statute*, the Ohio General Assembly has the authority to amend it if adopted by the voters, something Senate Leaders have already said could happen.

Coincidentally, a bill is pending in the Ohio Senate that would overhaul the state's *medical* marijuana program. Despite receiving eight hearings in its house of origin, Senate Bill 9 is not likely to advance until concerns relating to preferential treatment for some providers are addressed. Other pending legislation in the House relating to the recreational market may also be considered as part of a legislative "fix" if Issue 2 prevails.

To read the full ballot language on Issue 2, click HERE.

2024 Potential Ballot Issues

Looking ahead to 2024, two additional ballot measures could be brought before Ohio voters. A group called Raise the Wage Ohio is seeking to increase the minimum wage to $12.75 an hour starting January 1, 2025, and then go up to $15 an hour starting January 1, 2026. The Ohio Ballot Board gave the campaign the green light to start collecting the necessary 413,446 valid signatures to make the ballot back in April.

Additionally, the Citizens Not Politicians Amendment would again attempt to end gerrymandering by empowering citizens, not politicians, to draw fair districts using an open and transparent process. It will create a 15-member Ohio Citizens Redistricting Commission made up of Democratic, Republican, and Independent citizens who broadly represent the different geographic areas and demographics of the state, while banning current or former politicians, political party officials, lobbyists, and large political donors from sitting on the Commission.

As always, the Benesch government relations team is here to help you navigate through these and any other issues you may have.

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