



LEAGUE OF WOMEN VOTERS® OF OHIO

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Ohio Constitutional Modernization Commission

Bill of Rights and Voting Rights Committee

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Chairman Sapphire, members of the Committee, thank you for the invitation to share the League of Women Voters of Ohio's views on Article 5, Section 1 of the Ohio Constitution¹ about who may register to vote and how.

The fundamental right to vote and voter registration have been key components of LWV's mission since our founding in 1920. We were born out of the women's suffrage movement, with the charge to register, inform, and empower women to vote. In the 96 years since, that mission has expanded to engaging all eligible voters, women and men.

Today, the League of Women Voters, a nonpartisan political organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

LWV advocates on issues when our membership has studied an issue and adopted a position through consensus. At the national level, LWVUS has adopted a number of public policy positions relative to the right to vote.

- ***Representative Government*** - Promote an open governmental system that is representative, accountable and responsive.
- ***Voting Rights - Citizen's Right to Vote*** - Protect the right of all citizens to vote; encourage all citizens to vote.
- ***Election Process*** - Support uniform national voting qualifications and procedures for presidential elections.

¹ **Article 5 Elective Franchise, § 01 Who may vote**

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. Any elector who fails to vote in at least one election during any period of four consecutive years shall cease to be an elector unless he again registers to vote. (Amended, November, 1977.)

At the state level, LWVO has adopted an additional position on *Government: Ohio Constitution - General Criteria* - LWVO believes a constitution should be a clearly stated body of fundamental principles. It should provide for the flexible operation of government and be logically organized and internally consistent.

Recommendations on Art. 5, Sec.1

The League’s overarching recommendation for any constitutional, statutory, or regulatory provision related to the vote is that voting should be free, fair, and accessible. And as we also have a state position that the Ohio Constitution should be a document of general principles, we strongly urge this Committee to keep that broad “free, fair, and accessible” principle in mind in your deliberations over what to include in Article 5, Section 1.

Article 5, Section 1 contains two clauses – the first spells out the qualifications of an elector, and the second addresses when someone may cease to be an elector.

Clause A – Qualifications of an Elector

The first clause lists the following as the qualifications to be an elector in Ohio:

“Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections.”

The League believes voting is a fundamental right of all citizens. This Committee could choose to include such an acknowledgement in this section of the state constitution that anyone meeting the qualifications of an elector as set forth herein has a fundamental right to vote.

In the primary election this spring, a question arose as to 17-year-olds who will be age 18 by the general election and the extent to which they could participate in a primary election. Specifically, 17-year-olds could nominate candidates to appear on the general election ballot when they will be age 18, but they could not elect candidates or vote on issues to be decided at the primary when they are not yet age 18. This Committee may wish to consider whether to incorporate language in Art. 5 Sec. 1 on that topic, such as “of the age of eighteen years on or before the general election.”

We would suggest that this Committee and the OCMC legal counsel take a close look at the phrase “who has been a resident... such time as may be provided by law.” There has been a line of cases that call into question the constitutionality of durational residency requirements. See, e.g., Dunn v. Blumstein, 405 U.S. 330 (1972). A state may require residency in order to vote, but attaching a duration to the residency seems to be the threshold trigger for legal challenges. One possible alternative would be to say “...who is currently a resident of the state, county, township, or ward.”

We recommend eliminating the phrase “and has been registered to vote for thirty days” and replace it with “and is registered to vote as may be provided by law.” This would retain the

general principle that an elector must be lawfully registered in order to vote, but it would provide greater flexibility for the legislature to enact changes to modernize how we conduct our voter registration. For example, this would allow the legislature to consider adopting:

- If a registered voter moves from another state to Ohio within the month before an election, the law could be changed to allow such persons to register here when they move and have it take effect right away instead of missing out on participating in the election because they were not yet a resident on the (current) 30-day registration deadline.
- The League supports moving to same-day registration (SDR) also known as Election Day registration. Same-day registration has been demonstrated to be safe and accurate by the jurisdictions that use it, and it has been shown to increase voter turnout.
- A growing number of states are also moving to automatic voter registration (AVR) of citizens who meet specified required criteria. The League supports automatic voter registration if it is done with the proper safeguards in place.

While current Ohio officeholders seem inclined not to adopt either SDR or AVR, as other states utilize and refine such processes, they may become more appealing to Ohio lawmakers. Refining the language in the constitution to allow “current registration as may be provided by law” allows flexibility for the legislature to modernize the state process as new technology and best practices become viable to adopt here.

Clause B – Cease to be an Elector

The League of Women Voters strenuously lobbied for the passage of the National Voter Registration Act (NVRA or “motor voter”) that was signed into law in 1993. The vision that drove the NVRA is simple: the more people who vote, the stronger our democracy.

NVRA did two main things. It enabled many more eligible voters to become registered by requiring government agencies to offer voter registration. And it set forth clear procedures for voter list maintenance including when and under what circumstances voters may be removed from the rolls.

The second clause of Article 5, Section 1 does not correspond to the procedures set forth in the NVRA, and we strongly recommend that this provision be amended to reflect current federal law. The legislative history of the NVRA and the text of the act and related regulations make clear that voters should only be removed from the rolls based on eligibility (i.e., they cease to be eligible) and that proper safeguards must be in place to ensure no one is removed in error.

In addition to aligning the second clause to use the NVRA process, we also encourage this Committee to add language making voter registration permanent and portable within the state. LWV supports permanent and portable registration. Once a person is registered in the state, even if they move within the state, they are still registered, with the move becoming a simple update. The legislature recently amended state statute to make it easier for registered voters to file a change of address when they vote, and the Secretary of State even allows address changes to be made online. Incorporating this permanent and portable principle in the constitution would

ensure that subsequent legislatures or Secretaries of State could not recant and make it harder for Ohioans to move in state and still participate fully in our elections.

Thank you for the opportunity to testify, and we would be happy to answer your questions.

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