

February 21, 2012

VIA HAND DELIVERY & ELECTRONIC MAIL

The Ohio Ballot Board
c/o Hon. Jon Husted
180 East Broad Street, 15th Floor
Columbus, Ohio 43215

Re: **Submitted Proposed Initiated Constitutional Amendment
to add Section 2s of Article VIII to the Ohio Constitution,
The Ohio Clean Energy Initiative**

Dear Jon:

In accordance with the provisions of Section 3519.01(A) of the Ohio Revised Code, a written petition bearing a copy of a proposed initiated constitutional amendment to Article VIII of the Ohio Constitution was submitted to this office for examination, together with a summary of the proposed amendment, on February 10, 2012.

It is my statutory duty to determine whether the submitted summary of the proposed amendment “is a fair and truthful statement of the proposed law or constitutional amendment.” *Id.* If the summary is fair and truthful, then I am to “so certify and then forward the submitted petition to the Ohio ballot board for its approval.” *Id.* I must also verify with county boards of election that signatures accompanying the petition total at least 1,000 registered voters. By statute, I am required to perform these duties within ten days of receiving the petition. In this instance, the tenth day fell on Monday, February 20, 2012. Because the Attorney General’s Office was closed on Monday in observance of Presidents’ Day, the deadline for certification fell to today, Tuesday, February 21, 2012.

Having received verification that the submission was accompanied by more than 1,000 valid signatures, and having considered the language of the initiated constitutional amendment and its summary, I conclude that the summary is fair and truthful. I now forward the proposal to you in your capacity as Chair of the Ballot Board for consideration under Revised Code Section 3505.062, certifying to the Ohio Ballot Board as follows:

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 constitutional amendment.

Once the Ballot Board meets pursuant to Ohio Revised Code Section 3505.062, I will forward its certification(s) to you in accordance with my statutory duties.

Very respectfully yours,



Mike DeWine
Ohio Attorney General

Enclosure: Text and Summary

cc: Betsy Luper Schuster, General Counsel, Secretary of State *(by email)*

McTigue & McGinnis LLC
ATTORNEYS AT LAW

545 EAST TOWN STREET
COLUMBUS, OHIO 43215

DONALD J. MCTIGUE
MARK A. MCGINNIS
J. CURRY GILMORE
MICHAEL P. STONZIANG, OF COUNSEL

TEL: (614) 263-7000 | FAX: (614) 263-7078

February 10, 2012

Hon. Mike DeWine
Ohio Attorney General
30 E. Broad Street
Columbus, Ohio 43215

ATTORNEY GENERALS OFFICE

FEB 10 2012

RECEIVED
CONSTITUTIONAL OFFICES

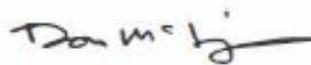
Re: Summary Petition

Dear Attorney General DeWine:

I am hereby filing with your office on behalf of my client, Yes for Ohio's Energy Future, and pursuant to R. C. § 3519.01(A), a petition to approve a summary of a constitutional amendment to be proposed by initiative petition. The petition contains 3,330 signatures of electors on 115 part-petitions and the summary and full text of the amendment to be proposed.

Please contact me if you have any questions. Thank you.

Very truly yours,



Donald J. McTigue

INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

TITLE

The Ohio Clean Energy Initiative

SUMMARY

This proposed amendment would adopt Section 2s to Article VIII of the Ohio Constitution to:

1. Direct the General Assembly to provide by law for the issuance of general obligation bonds and other obligations of the state in an aggregate principal amount of one billion three hundred million dollars in each fiscal year commencing in FY 2013 and ending in FY 2023 for the purposes of:
 - Energy infrastructure capital improvement, which shall include, but not be limited to, solar, wind, biomass, battery technology and geothermal facilities;
 - Research and development in support of Ohio industry, commerce, and business related to clean energy, which shall include, but not be limited to research and product innovation, development, and collaborative commercialization efforts between public and private entities; and
 - Development of sites and facilities in Ohio for and in support of industry, commerce, distribution, and research and development related to clean energy.
2. Declare that the above purposes are proper public purposes of the state and local governmental entities and are necessary and appropriate means to create and preserve jobs and enhance employment and educational opportunities, improve the quality of life and the general and economic well-being of all people and businesses in the state, and expand energy infrastructure;
3. Set forth other provisions regarding permitted uses within the above purposes of funds received from issuance of obligations under this section;
4. Provide that the bonds and other obligations issued under this section shall be backed by the full faith and credit, revenue and taxing power of the state;
5. Set forth criteria for issuance of bonds and other general obligations of the state under this section, including, but not limited to, length until maximum maturity and debt servicing;
6. Require that the first issuance of such obligations each fiscal year shall provide for not less than sixty-five million dollars of the principal amount to be for the operational expenses of the Ohio Energy Initiative Commission;

7. Permit funds raised from obligations issued under this section to carry forward from year to year and specify that all funds raised under this section must be used solely for the above purposes;
8. Provide that funds raised under obligations issued under this section shall be awarded to projects based solely upon the determination of the Ohio Energy Initiative Commission LLC, a limited liability company registered in the State of Delaware under File Number 50946-50, or its successor organization;
9. Require that implementation of funding of projects for the purposes set forth above shall utilize independent reviewers to review the merits of proposed projects and make recommendations to the Ohio Energy Initiative Commission regarding which proposed projects should receive funding;
10. Provide that Ohio's public records laws shall apply to the Ohio Energy Initiative Commission to the same extent that it applies to state agencies generally;
11. Prohibit the General Assembly and its members from participating in establishing the criteria for eligibility for an award of funds under this section, participation in the selection process for awarding such funds, setting the terms of any such award, setting criteria for or selection of the independent reviewers, or operations of the Ohio Energy Commission Initiative;
12. Require the General Assembly and agencies of the state, upon the request of the Ohio Energy Initiative Commission, to take all necessary steps to seek and accept funds awarded by the Federal government in whole or part for any of the purposes contained in this section and to provide that such funds shall be awarded by the Ohio Energy Initiative Commission in the same manner as other awards;
13. Set forth other provisions governing the Ohio Energy Initiative Commission;
14. Require the General Assembly to pass laws implementing certain provisions of the amendment;
15. Provide that certain other provisions of the Ohio Constitution would not apply to the obligations issued under this section or to the provisions of this amendment;
16. Provide that the provisions of the section are independent of and not in derogation of or a limitation on powers, authority, determinations or confirmations under laws or other provisions of the constitution and do not impair any previously adopted provisions of the Ohio Constitution or laws of the state or local governments.
17. Provide that in the event any provision of the section is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the remaining provisions, which shall continue in full force and effect.

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:

Evonne Richardson	6065 Nasby Drive, Galloway, Ohio 43119
Maria A. Yonamine	124 Webster Park Avenue, Columbus, Ohio 43214
Kevin Howard	5273 Sweet William Court, Gahanna, Ohio 43230
David Renner	2333 Brandon Road, Upper Arlington, Ohio 43221

FULL TEXT OF LAW

Be it resolved by the people of the State of Ohio that Article VIII, Section 2s of the Ohio Constitution be adopted and read as follows:

§ 2s. Issuance of general obligation bonds for clean energy initiatives and economic and development purposes.

(A) It is determined and confirmed that the development purposes referred to in this division, and provisions for them, are proper public purposes of the state and local governmental entities and are necessary and appropriate means to create and preserve jobs and enhance employment and educational opportunities; to improve the quality of life and the general and economic well-being of all the people and businesses in all areas of this state, including economically disadvantaged businesses and individuals; and to expand the energy infrastructure; all to better ensure the public health, safety, and welfare. Those purposes are:

(1) Energy infrastructure capital improvement, which shall include, but not be limited to, solar, wind, biomass, battery technology, and geothermal facilities, including real property, interests in real property, facilities, and equipment related to or incidental thereto, and shall include, without limitation, the cost of acquisition, construction, reconstruction, expansion, improvement, planning, and equipping;

(2) Research and development in support of Ohio industry, commerce, and business related to clean energy, which shall include, but not be limited to, research and product innovation, development, and commercialization through efforts by and collaboration among Ohio businesses and industry, state and local public entities and agencies, public and private education institutions, and/or research organizations and institutions; and

(3) Development of sites and facilities in Ohio for and in support of industry, commerce, distribution, and research and development purposes related to clean energy.

(B) The general assembly shall provide by law, subject to the limitations of and in accordance with the limitations of this section, for the issuance of general obligation bonds and other obligations of the state for the purpose of financing or assisting in the financing of the cost of projects implementing the above purposes beginning in fiscal year 2013 and continuing through fiscal year 2023. The state shall issue such obligations aggregating one billion three hundred million dollars principal amount in each of such fiscal years. Funds raised under this section shall only be used for the purposes set forth in this section and may carry forward from year to year until exhausted. The first issuance of such obligations each fiscal year shall provide for not less than sixty-five million dollars (\$65,000,000.00) of the principal amount to be for the operational expenses of the Ohio Energy Initiative Commission described in this section. Such operational funds shall carry over from year to year until exhausted.

(C) Each issue of state general obligations under this section for public infrastructure capital improvements or development of sites and facilities shall mature not more than thirty years from the date of issuance, and each issue of state general obligations for research and development purposes shall mature in not more than twenty years from the date of issuance; or, if issued to retire or refund other obligations, within that number of years from the date the debt being retired

or refunded was originally issued. If state general obligations are issued as notes in anticipation of the issuance of bonds, provision shall be made by law for the establishment and maintenance, during the period in which the notes are outstanding, of a special fund or funds into which shall be paid, from the sources authorized for the payment of such bonds, the amount that would have been sufficient, if bonds maturing during the permitted period of years had been issued without such prior issuance of notes, to pay the principal that would have been payable on such bonds during such period. Such fund or funds shall be used solely for the payment of principal of such notes or bonds in anticipation of which such notes have been issued. Notwithstanding anything to the contrary in section 2k or 2m of Article VIII, obligations issued under this section or section 2k or 2m to retire or refund obligations previously issued under this section or section 2k or 2m shall not be counted against the fiscal year or total issuance limitations provided in this section or section 2k or 2m, as applicable.

The obligations issued under this section are general obligations of the state. The full faith and credit, revenue, and taxing power of the state shall be pledged to the payment of the principal of and premium and interest and other accreted amounts on outstanding obligations as they become due (hereinafter called debt service), and bond retirement fund provisions shall be made for payment of that debt service. Provision shall be made by law for the sufficiency and appropriation, for purposes of paying debt service, of excises, taxes, and revenues so pledged or committed to debt service, and for covenants to continue the levy, collection, and application of sufficient excises, taxes, and revenues to the extent needed for that purpose. Notwithstanding Section 22 of Article II, Ohio Constitution, no further act of appropriation shall be necessary for that purpose. The obligations and the provision for the payment of debt service, and repayment by governmental entities of any loans made under this section, are not subject to Sections 5, 6, and 11 of Article XII, Ohio Constitution. Moneys referred to in Section 5a of Article XII, Ohio Constitution may not be pledged or used for the payment of that debt service. Debt service on obligations issued for the purposes in division (A) of this section shall not be included in the calculation of total debt service for purposes of division (A) of Section 17 of Article VIII, Ohio Constitution.

(D) (1) The Ohio Energy Initiative Commission described in this section may participate in any public infrastructure capital improvement under this section with municipal corporations, counties, townships, or other governmental entities as designated by law, or any one or more of them. Such participation may be by grants, loans, or contributions to them for any such capital improvements. The entire proceeds of the infrastructure obligations shall be used for public infrastructure capital improvements of municipal corporations, counties, townships, and other governmental entities, except to the extent that the general assembly provides by law that the state may reasonably be compensated from such moneys for planning, financial management, or administrative services performed in relation to the issuance of infrastructure obligations.

(2) Implementation of the purposes in division (A) of this section includes supporting any and all related matters and activities, including: attracting researchers and research teams by endowing research chairs or otherwise; activities to develop and commercialize products and processes; intellectual property matters such as copyrights and patents; property interests, including time sharing arrangements; and financial rights and matters such as royalties, licensing, and other financial gain or sharing resulting from research and development purposes. State and local public moneys, including the proceeds of bonds, notes, and other obligations, may be used to pay costs of or in support of or related to these research and development purposes, including, without limitation, capital formation, direct operating costs, costs of research and facilities,

including interests in real property therefore, and support for public and private institutions of higher education, research organizations or institutions, and private sector entities. The exercise of these powers by the state and state agencies, including state-supported and state-assisted institutions of higher education, and local public entities and agencies, may be jointly or in coordination with each other, with researchers or research organizations and institutions, with private institutions of higher education, with individuals, or with private sector entities. State and local public participation may be in such manner as the entity or agency determines, including by any one or a combination of grants, loans including loans to lenders or the purchase of loans, subsidies, contributions, advances, or guarantees, or by direct investments of or payment or reimbursement from available moneys, or by providing staffing or other support, including computer or other technology capacity, or equipment of facilities, including interests in real property therefore, and either alone or jointly, in collaborative or cooperative ventures, with other public agencies and private sector entities including not for profit entities. In addition to other state-level monetary participation as referred to in this section or otherwise, state-supported and state-assisted institutions of higher education may, as authorized from time to time by the general assembly, issue obligations to pay costs of participating in and implementing research and development purposes. In addition to the other obligations authorized in or pursuant to this section, the general assembly also may authorize the state and state agencies and local public entities and agencies, and corporations not for profit designated by any of them as such agencies or instrumentalities, to issue obligations to borrow and loan or otherwise provide moneys for research and development purposes, including, but not limited to, obligations for which moneys raised by taxation shall not be obligated or pledged for the payment of debt service and which are therefore not subject to Sections 5, 6, and 11 of Article XII, Ohio Constitution.

(3) Development of sites and facilities for the purposes in division (A) of this section includes acquisition of real estate and interests in real estate, site preparation, including any necessary remediation and cleanup, constructing and improving facilities, and providing public infrastructure capital improvements and other transportation and communications infrastructure improvements for and in support of the use of those sites and facilities for those purposes. State and local public moneys, including the proceeds of bonds, notes and other obligations, may be used to pay costs of those purposes. The exercise of these powers by the state and state agencies and local public entities and agencies, may be jointly or in coordination with each other, and with individuals or private sector business entities. State and local public participation may be in such manner as the entity or agency determines, including by any one or a combination of grants, loans including loans to lenders or the purchase of loans, subsidies, contributions, advances, or guarantees, or by direct investments of or payment or reimbursement from available moneys. In addition to other state-level monetary participation as referred to in this section or otherwise, state-supported and state-assisted institutions of higher education, and local public entities and agencies may, as authorized from time to time by the General Assembly, issue obligations to pay costs of participating in and implementing the development of sites and facilities.

(E) Obligations issued under authority of this section, provisions for the payment of debt service on them, the purposes and uses to which and the manner in which the proceeds of those obligations or moneys from other sources are to or may be applied, and other implementation of those purposes as referred to in this section, are not subject to Sections 4 and 6 of Article VII, Ohio Constitution. Obligations issued under authority of this section, the transfer thereof, and the interest, interest equivalent, and other income and accreted amounts therefrom, including any profit made on the sale, exchange, or other disposition thereof, shall at all times be free from taxation within the state.

(F) Funds raised from issuance of obligations under this section shall be awarded to projects based solely upon the determination of the Ohio Energy Initiative Commission LLC ("Ohio Energy Initiative Commission"), a limited liability company registered in the State of Delaware under File Number 50946-50, or its successor organization. Awarding of funding for the purposes of the obligations issued under this section shall include utilization of independent reviewers to review the merits of proposed projects and to make recommendations to the Ohio Energy Initiative Commission concerning which proposed projects should be awarded support from the proceeds of the sale of obligations under this section. The Ohio Energy Initiative Commission shall be subject to the state's public records laws to the same extent as state agencies generally. The general assembly, and members thereof, shall not participate in establishing the criteria for eligibility for an award of funds under this section, the selection process for awarding funds under this section, setting the terms for any award of funds made pursuant to this section, setting criteria for or selection of independent reviewers under this section, or any of the operations of the Ohio Energy Initiative Commission. This section shall otherwise be implemented in the manner and to the extent provided by law by the general assembly, including provision for the procedure for incurring and issuing obligations, separately or in combination with other obligations, and refunding, retiring, and evidencing obligations; provision for ensuring the accountability of all state funding provided for the purposes in division (A) of this section; provision for restricting or limiting the taking of private property under Section 19 of Article I for disposition to private sector entities for the purposes in division (A) of this section or restricting the disposition of that property to private sector entities or individuals; and provision for the implementation of the purposes in division (A) of this section to benefit people and businesses otherwise qualified for receipt of funding for the purposes in division (A) of this section, including economically disadvantaged businesses and individuals in all areas of this state, including by the use to the extent practicable of Ohio products, materials, services, and labor.

(G) Upon the request of the Ohio Energy Initiative Commission, the general assembly and agencies of the State of Ohio shall take all necessary steps to seek and accept funds awarded by the Federal government, in whole or in part, for any of the purposes set forth in Division (A) of this section. Any such funds received by the State of Ohio for the purposes set forth in Division (A) of this section shall be awarded by the Ohio Energy Initiative Commission in the same manner as set forth herein.

(H) The powers and authority granted or confirmed by and under, and the determinations in, this section are independent of, in addition to, and not in derogation of or a limitation on, powers, authority, determinations, or confirmations under laws or under other provisions of the Ohio Constitution and do not impair any previously adopted provisions of the Ohio Constitution or any law previously enacted by the general assembly or by a local government.

(I) In the event that any provision under this section is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the remaining provisions, which shall continue in full force and effect.