

Government: Ohio Constitution

Positions: Ohio Constitution

General Criteria (Adopted May 1968)

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.

Taxation and Finance (Adopted March 1969)

LWVO supports constitutional revision that would:

Remove the fixed dollar debt limit and provide a flexible limit tied to some indicator of the state's economic wealth.

Specify that the power to levy state taxes and determine their uses resides in the General Assembly. This necessitates removal of constitutional provisions dealing with earmarking of taxes.

Judiciary (Adopted March 1973, amended May 2003)

LWVO believes that the selection and tenure of judges are fundamental matters and therefore should be provided for in the Constitution. LWVO supports policies that promote the independence of the judiciary. LWVO supports constitutional revision to provide for:

Nomination of judges for Appellate and Supreme Courts by judicial nominating commissions that are carefully balanced and broadly based. Commissions must be nonpartisan or bipartisan and must include both legal and lay members and not be dominated by the former.

Appointment of judges by the Governor from lists provided by a nominating commission.

The inclusion of constitutional provisions to require appointive judges to run against their own records in noncompetitive elections.

While an all-elective judiciary exists, LWVO supports provision for the nonpartisan election of judges in both primary and general elections, public financing, stricter standards for recusal, enhanced reporting and transparency of contributions, and increased education of voters as to the role of the judiciary and the qualifications of candidates for judicial office.

Term Limits (Adopted May 1992)

The LWVO opposes term limits for members of the Ohio General Assembly.

Background: Ohio Constitution

Constitutional Convention

Ohio's Constitution provides that every 20 years voters must decide whether there should be a convention to amend the constitution. Anticipating that issue in 1972, LWVO in 1967 adopted a study to see if a constitutional convention would be warranted.

In 1967, members agreed on the general criteria for a good constitution, and these were then used throughout the study. For the next five years we studied and reached consensus on taxation, finance, legislative, executive, local government, amendment, and judicial provisions.

In 1968, study focused on the public debt and the finance and taxation articles. The Leagues participating in consensus agreed unanimously that the \$750,000 debt limit was unrealistic and should be repealed.

LWVO supported the 1971 creation of a Constitution Revision Commission to recommend constitution changes to the legislature. From 1971 to 1977 this commission (whose membership included several League members) was an additional forum for LWVO lobbying and was instrumental in bringing many issues to the ballot.

LWVO did not support a 1972 or a 1992 constitutional convention, but in both cases provided pro/con information to voters. Ohioans turned down a convention both times, as they had in 1932 and 1952.

In 2011 the legislature passed HB 188 which created a 32 member commission to explore needed changes to the Ohio Constitution. The commission is to begin its work on January 1, 2012 and issue its first report on January 1, 2013. The League did not take a position on the commission other than to urge that the commission begin its work sooner than January 1, 2012.

Selection of Judges

LWVO interest in appointing judges dates back to 1921. In 1938 we supported a successful initiative petition drive to put such an amendment on the ballot, but the issue failed by a two-to-one margin. In our 1947-52 Constitution Study we again adopted an appointive judiciary position. This was dropped by the 1969 Convention after legislatures in '53, '55, '57, '63, '65, and '67 failed to recommend this issue for the ballot. Re-adoption in 1973, following study of the judiciary article, showed member commitment to the concept.

In 1979, we again worked to reach the ballot with this issue via initiative petition, but the effort failed. In 1986 the League began collecting signatures as an active member of a coalition, and the issue ultimately reached the November 1987 ballot. LWVO campaigned strongly for its passage, but the issue failed 65 to 35 percent. During the spring of 1999, LWVO worked with other citizen groups to promote bipartisan commissions for the selection of judges. The Governor's office took this proposal under consideration, but there was no action.

In March 2002 the League's Education Fund hosted a national conference on judicial independence, and at Convention 2002 the League concurred with the addition of the statement regarding general support for policies that promote an independent judiciary. The new position was based on the recognition that voters were not likely to support merit selection and that the existing position offered little flexibility to support other reforms. Later that year, Chief Justice Thomas Moyer asked the League to be one of five conveners of a statewide summit on judicial election reform. The March 2003 summit, "Judicial Impartiality: The Next Steps," resulted in broad-based committees examining term lengths, qualifications, disclosure, voter guides, and public financing, with League members represented on each committee. Initial recommendations involved legislation on term length and qualifications, rules changes on disclosure at the Supreme Court, and voter guide publication.

In 2007, Governor Strickland formed the Ohio Judicial Appointments Recommendations Panel to screen candidates for judicial appointments made by the Governor. An LWVO Board member was appointed to the initial panel. The Panel did not continue under Governor Kasich.

In 2008 the LWVO board approved an eight-point plan clarifying the League's position on supporting policies that promote the independence of the judiciary.

In 2009 the LWVO began work with the Chief Justice of the Ohio Supreme Court and the Ohio State Bar Association to initiate change in the way judges are selected in Ohio, focusing on public financing and appointment/retention election. Following the unexpected death of the Chief Justice and the change in composition of the legislature and governor, the efforts to achieve these reforms slowed down. The League continues to explore public financing options, although recent U.S. Supreme Court decisions restrict the approaches which are permitted. The League is also interested in persuading the judiciary to adopt stricter recusal standards.

Term Limits

In 1992, anti-incumbent fever led to ballot issues across the country seeking to limit the number of terms that could be served by legislators. In Ohio there were actions to put the term limit issue on the ballot, both through initiative petition and through legislative resolutions. LWVUS has a position opposing term limits for members of Congress; however, the position did not extend to state offices. The state board adopted a position opposed to term limitations and, as an emergency program item, the statement was concurred with by delegates to 1992 State Council. Although the LWVO worked to oppose term limits, in 1992 voters passed three constitutional amendments: to limit terms of the members of the General Assembly; to limit terms of Ohio's U.S. senators and representatives (Term limits for both U.S. senators and representatives were ruled unconstitutional); and to limit terms of five statewide elected officials: lieutenant governor, secretary of state, treasurer, attorney general, and auditor. (The term for governor was already limited to two four-year terms.)

Outlook: Ohio Constitution

LWVO favors efforts to replace the \$750,000 debt limit with a flexible limit, but since the issue's defeat in 1977 no interest has surfaced. LWVO has worked to repeal current earmarking provisions and will oppose future efforts to earmark taxes in the Constitution.

Voters are increasingly concerned about the large sums of money raised for judicial campaigns. The time may be right for a reform in selection of justices for the Ohio Supreme Court.

Term limits for members of the General Assembly have changed the dynamics in the Statehouse: legislators no longer politely "wait their turn" for leadership positions. More legislators take extreme positions because they have little to lose—they will be gone in eight years regardless, and they are not in the legislature long enough to learn how to compromise so that government can be run effectively. Some legislators express a hope for a repeal of term limits, but with public sentiment still favoring term limits, this is highly unlikely in the near future.

Most general elections feature proposed constitutional amendments on an issue important to a narrow interest group. Many of those proposed amendment contain so much specificity that they violate the LWVO principle that the Ohio Constitution should be a document of fundamental principles. LWVO will continue to oppose those types of amendments.