

**OML NEW COUNCIL SEMINAR
HOME RULE CONSTITUTIONAL
PROVISIONS**

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OHIO CONSTITUTION ARTICLE XVIII

§ 3 Powers.

- Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.

The provisions of § 3 of HB 386 (149 v —) read as follows:

SECTION 3. (A) The provisions of the Revised Code, including, but not limited to, Titles XI, XIII, XVII, and XLVII, relating to the origination, granting, servicing, and collection of loans and other forms of credit prescribe rules of conduct upon citizens generally, comprise a comprehensive regulatory framework intended to operate uniformly throughout the state under the same circumstances and conditions, and constitute general laws within the meaning of Section 3 of **Article XVIII** of the Ohio Constitution.

(B) The provisions of the Revised Code, including, but not limited to, Titles XI, XIII, XVII, and XLVII, relating to the origination, granting, servicing, and collection of loans and other forms of credit have been enacted in furtherance of the police powers of the state.

(C) Silence in the Revised Code, including, but not limited to, Titles XI, XIII, XVII, and XLVII, with respect to any act or practice in the origination, granting, servicing, or collection of loans or other forms of credit shall not be interpreted to mean that the state has not completely occupied the field or has only set minimum standards in its regulation of lending and other credit activities.

(D) It is the intent of the General Assembly to entirely preempt municipal corporations and other political subdivisions from the regulation and licensing of lending and other credit activities.

§ 4 Acquisition of public utility; contract for service; condemnation.

- Any municipality may acquire, construct, own, lease and operate within or without its corporate limits, any public utility the product or service of which is or is to be supplied to the municipality or its inhabitants, and may contract with others for any such product or service. The acquisition of any such public utility may be by condemnation or otherwise, and a municipality may acquire thereby the use of, or full title to, the property and franchise of any company or person supplying to the municipality or its inhabitants the service or product of any such utility.

§ 5 Acquisition by ordinance; procedure; referendum; submission.

- Any municipality proceeding to acquire, construct, own, lease or operate a public utility, or to contract with any person or company therefor, shall act by ordinance and no such ordinance shall take effect until after thirty days from its passage. If within said thirty days a petition signed by ten per centum of the electors of the municipality shall be filed with the executive authority thereof demanding a referendum on such ordinance it shall not take effect until submitted to the electors and approved by a majority of those voting thereon. The submission of any such question shall be governed by all the provisions of section 8 of this article as to the submission of the question of choosing a charter commission.

§ 6 Sale of surplus.

- Any municipality, owning or operating a public utility for the purpose of supplying the service or product thereof to the municipality or its inhabitants, may also sell and deliver to others any transportation service of such utility and the surplus product of any other utility in an amount not exceeding in either case fifty per cent of the total service or product supplied by such utility within the municipality, provided that such fifty per cent limitation shall not apply to the sale of water or sewage services.

§ 7 Home rule.

- Any municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of section 3 of this article, exercise thereunder all powers of local self-government.

§ 8 Submission of question of election of charter commission; approval.

- The legislative authority of any city or village may by a two-thirds vote of its members, and upon petition of ten per centum of the electors shall forthwith, provide by ordinance for the submission to the electors, of the question, "Shall a commission be chosen to frame a charter." The ordinance providing for the submission of such question shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the question at a special election to be called and held within the time aforesaid. The ballot containing such question shall bear no party designation, and provision shall be made thereon for the election from the municipality at large of fifteen electors who shall constitute a commission to frame a charter; provided that a majority of the electors voting on such question shall have voted in the affirmative. Any charter so framed shall be submitted to the electors of the municipality at an election to be held at a time fixed by the charter commission and within one year from the date of its election, provision for which shall be made by the legislative authority of the municipality in so far as not prescribed by general law. Not less than thirty days prior to such election the clerk of the municipality shall mail a copy of the proposed charter to each elector whose name appears upon the poll or registration books of the last regular or general election held therein. If such proposed charter is approved by a majority of the electors voting thereon it shall become the charter of such municipality at the time fixed therein.

§ 9 Amendments to charter; submission; approval.

- Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority. The submission of proposed amendments to the electors shall be governed by the requirements of section 8 as to the submission of the question of choosing a charter commission; and copies of proposed amendments may be mailed to the electors as hereinbefore provided for copies of a proposed charter, or pursuant to laws passed by the general assembly, notice of proposed amendments may be given by newspaper advertising. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the charter of the municipality. A copy of said charter or any amendment thereto shall be certified to the secretary of state, within thirty days after adoption by a referendum vote.

§ 10 Appropriation in excess of public use.

- A municipality appropriating or otherwise acquiring property for public use may in furtherance of such public use appropriate or acquire an excess over that actually to be occupied by the improvement, and may sell such excess with such restrictions as shall be appropriate to preserve the improvement made. Bonds may be issued to supply the funds in whole or in part to pay for the excess property so appropriated or otherwise acquired, but said bonds shall be a lien only against the property so acquired for the improvement and excess, and they shall not be a liability of the municipality nor be included in any limitation of the bonded indebtedness of such municipality prescribed by law.

§ 11 Assessments for cost of appropriating property.

- Any municipality appropriating private property for a public improvement may provide money therefor in part by assessments upon benefited property not in excess of the special benefits conferred upon such property by the improvements. Said assessments, however, upon all the abutting, adjacent, and other property in the district benefited, shall in no case be levied for more than fifty per centum of the cost of such appropriation.

§ 12 Bonds for public utilities.

- Any municipality which acquires, constructs or extends any public utility and desires to raise money for such purposes may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law; provided that such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon such municipality but shall be secured only upon the property and revenues of such public utility, including a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure.

§ 13 Taxation, debts, reports and accounts.

- Laws may be passed to limit the power of municipalities to levy taxes and incur debts for local purposes, and may require reports from municipalities as to their financial condition and transactions, in such form as may be provided by law, and may provide for the examination of the vouchers, books and accounts of all municipal authorities, or of public undertakings conducted by such authorities.

§ 14 Elections.

- All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election.

OPINION NO. 1512 Syllabus: 1. Members of a commission selected to frame a municipal charter as provided by Section 8, Article XVIII, of the Ohio Constitution are not municipal officers, and candidates for election to such commission are not candidates for nomination for an elective municipal office within the meaning of Section 7, Article V, Ohio Constitution, and there is no requirement in law that such candidates file petitions in accordance with Sections 3513.251 and 3513.252, Revised Code. 2. The ordinance adopted by the legislative authority of a municipal corporation under the authority of Section 8, Article XVIII, Ohio Constitution, may prescribe the method of selection of candidates to be elected to the commission to frame a charter. To: Ted W. Brown, Secretary of State, Columbus, Ohio By: William B. Saxbe, Attorney General, November 2, 1964 2-405 OPINIONS 1964 Your request for my opinion reads: "This office and our several Boards of Elections are experiencing numerous problems with respect to the proper method of conducting elections for members of charter commissions for municipal corpora Opin. 1512 ATTORNEY GENERAL 2-406 nation, and provision shall be made thereon for the election from the municipality at large of fifteen electors who shall constitute a commission to frame a charter; provided that a majority of the electors voting on such question shall have voted in the affirmative. Any charter so framed shall be submitted to the electors of the municipality at an election to be held at a time fixed by the charter commission and within one year from the date of its election, provision for which shall be made by the legislative authority of the municipality in so far as not prescribed by general law. Not less than thirty days prior to such election the clerk of the municipality shall mail a copy of the proposed charter to each elector whose name appears upon the poll or registration books of the last regular or general election held therein. If such proposed charter is approved by a majority of the electors voting thereon it shall become the charter of such municipality at the time fixed therein." This section specifically directs that whenever the question of selecting a commission to frame a charter is presented to the electors of a municipality, provision shall be made on the nonpartisan ballot for the election of fifteen electors to serve as a charter commission. That section does not require that a candidate for member of such commission file a petition. Section 7, Article V, supra, reads in part: "All nominations for elective state, district, county and municipal offices shall be made at direct primary elections or by petition as provided by law, and provision shall be made by law for a preferential vote for United States senator; but direct primaries shall not be held for the nomination of township officers or for the officers of municipalities of less than two thousand population, unless petitioned for by a majority of the electors of such township or municipality." The basic question seems to me to be whether members of a commission to frame a charter for a municipality are municipal officers within the meaning of Section 7, Article V, of the Ohio Constitution. If this answer is in the affirmative, then it becomes necessary to examine the statutes providing for the filing of nominating petitions by candidates for election as officers of municipal corporations in those cases where nominations are not made at a primary election. Section 3513.251, Revised Code, controls as to municipalities with a population of less than two thousand and those with a population in excess of two thousand in which a primary election was not held for the nomination of candidates for the next preceding regular municipal election, unless such primary was eliminated solely because the number of candidates for any office did not exceed the number to be nominated by a political party. Section 3513.252, Revised Code, governs the nominating petitions to be filed by independent candidates in municipalities having a population of more than two

thousand 2-407 OPINIONS 1964 where a primary election was held for the preceding regular municipal election and of candidates in such municipalities Opin. 1512 in which a primary election was eliminated because the number of candidates for any office did not exceed the number to be nominated by any political party. These sections both provide that the petitions shall be signed by twenty-five electors or a percentage of those voting for governor at the next preceding regular state election in the municipal corporation, whichever number is greater. The percentages are not the same in the two sections. The then Attorney General considered this problem in Opinion No. 1021, Opinions of the Attorney General for 19291 page 1558. The syllabus reads: "1. Candidates for commissioners to frame a charter under Section 8 of Article XVIII of the Ohio Constitution should be nominated as provided by general law, for the nomination of other municipal officers. "2. for such election for such vided in Where no nominations have been made candidates, it is the duty of the officials to provide blank spaces election upon the ballot 1 as pro- Section 5025 of the General Code." The first paragraph of the syllabus, standing alone, suggests at first reading that petitions conforming to present Sections 3513.251 and 3513.252, Revised Code, would be required. The two paragraphs when read together however, suggest to me that this procedure was held to be preferable but not mandatory. I am strengthened in this conclusion by the following language which appears at page 1560: "In analyzing said Section 8, it will be noted that while it is a mandatory requirement that the ordinance provide for the time of the submission of the question, it apparently is not mandatory that the ordinance contain a provision relative to the election of the commissioners. However, it may be stated, as a general practice, that it has been the custom, in the adoption of such an ordinance, to enact therein express provisions as to the method of nominating the candidates who are to be voted for as the commissioners to frame a charter. See Ellis • Ohio Municipal Code. The form of ordinance set out in the text above mentioned, after providing for the submission of the question as to whether a commission shall be chosen, provides in detail the method of selecting the candidates for commissioners. \iithout undertaking to set forth all of the provisions thereof it may be stated that it apparently undertakes to adopt the method provided by statute for the nomination by petition of candidates for municipal offices. However, it may be noted 1n Section 3 of said form that it is provided that the filing of the certificate and nomination papers or candidates shall be made Opin. 1512 ATTORNEY GENERAL not less than twenty-five days prior to the date of election. This provision is significant, for the reason that the statutes governing such cases now provide that such papers shall be filed not less than sixty days before the election. 11 Review of Section 8 of Article XVIII of the Ohio Constitution shows that the election provided for therein must be held within the period from sixty to one hundred and twenty days after the legislative authority adopts the ordinance provided for therein. Both Sections 3513.251 and 3513.252, Revised Code, require that nominating petitions be filed on or before the ninetieth day before the date of the election in question, being the general election and the primary, respectively. Clearly, then, if these sections control to any extent, they can control only in part. In my opinion, members of a charter commission are not municipal officers within the meaning of Section 7, Article V, of the Ohio Constitution. Their duties are only those set out in Section 8, Article XVIII, supra; that is, they frame a charter for the municipality and submit it to the electors of the municipality at an election to be held within the designated time period. This commission does not adopt a charter, and I am unable to conclude that the members are public officers. In State, ex rel. Milburn vs. Pethel, 153 Ohio St., 1, the syllabus reads in part: 11 1. A public officer, as distinguished from an employee, is one who is invested by law with a portion of the sovereignty of the state and who is authorized to exercise functions either of an executive, legislative or judicial character. . 11 In the course of that opinion, reference was made to State, ex rel. Attorne~ General vs. Jennings, 57 Ohio St., 415, the

sylvania of which reads in part: 11 2. To constitute a public office against the incumbent of which quo warranto will lie, it is essential that certain independent public duties, a part of the sovereignty of the state, should be appointed to it by law, to be exercised by the incumbent, in virtue of his election or appointment to the office, thus created and defined, and not as a mere employe, subject to the direction and control of some one else. 11 I am unable to find that a commission elected to frame a charter in any way exercises any of the sovereignty of the municipal corporation. Only the electors can actually adopt the charter. It is my conclusion that there is no legal requirement that candidates for such commission file petitions such as must be filed by candidates for election to municipal offices. In my opinion, the legislative authority of a municipal corporation, in passing an ordinance to present to the electors the question of framing a charter, may and should provide for the election of a commission to frame such charter, including the determination of the number of signatures necessary on any petitions required by such ordinance to be filed by the candidates for such commission. It is, therefore, my opinion and you are advised: Opin. 1516 1. Members of a commission selected to frame a municipal charter as provided by Section 8, Article XVIII, of the Ohio Constitution are not municipal officers, and candidates for election to such commission are not candidates for nomination for an elective municipal office within the meaning of Section 7, Article V, Ohio Constitution, and there is no requirement in law that such candidates file petitions in accordance with Sections 3513.251 and 3513.252, Revised Code. 2. The ordinance adopted by the legislative authority of a municipal corporation under the authority of Section 8 Article XVIII, Ohio Constitution, may prescribe the method of selection of candidates to be elected to the commission to frame a charter.

ORC Ann. 3513.261

Copy Citation

Current with Legislation passed by the 132nd General Assembly and filed with the Secretary of State through file 51 (HB 45).

- [Page's Ohio Revised Code Annotated](#)
- [Title 35: Elections](#)
- [Chapter 3513: Primaries; Nominations](#)
- [Nominations by Petition](#)

§ 3513.261 Form of nominating petition and statement of candidacy; filing fee.

- A nominating petition may consist of one or more separate petition papers, each of which shall be substantially in the form prescribed in this section. If the petition consists of more than one separate petition paper, the statement of candidacy of the candidate or joint candidates named need be signed by the candidate or joint candidates on only one of such separate petition papers, but the statement of candidacy so signed shall be copied on each other separate petition paper before the signatures of electors are placed on it. Each nominating petition containing signatures of electors of more than one county shall consist of separate petition papers each of which shall contain signatures of electors of only one county; provided that petitions containing signatures of electors of more than one county shall not thereby be declared invalid. In case petitions containing signatures of electors of more than one county are filed, the board of elections shall determine the county from which the majority of the signatures came, and only signatures from this county shall be counted. Signatures from any other county shall be invalid.
- All signatures on nominating petitions shall be written in ink or indelible pencil.
- At the time of filing a nominating petition, the candidate designated in the nominating petition, and joint candidates for governor and lieutenant governor, shall pay to the election officials with whom it is filed the fees specified for the office under divisions (A) and (B) of [section 3513.10 of the Revised Code](#). The fees shall be disposed of by those election officials in the manner that is provided in [section 3513.10 of the Revised Code](#) for the disposition of other fees, and in no case shall a fee required under that section be returned to a candidate.
- Candidates or joint candidates whose names are written on the ballot, and who are elected, shall pay the same fees under [section 3513.10 of the Revised Code](#) that candidates who file nominating petitions pay. Payment of these fees shall be a condition precedent to the granting of their certificates of election.
- Each nominating petition shall contain a statement of candidacy that shall be signed by the candidate or joint candidates named in it or by an attorney in fact acting pursuant to [section 3501.382 of the Revised Code](#). Such statement of candidacy shall contain a declaration made under penalty of election falsification that the candidate desires to be a candidate for the office named in it, and that the candidate is an elector qualified to vote for the office the candidate seeks.
- The form of the nominating petition and statement of candidacy shall be substantially as follows:

STATEMENT OF CANDIDACY

I, (Name of candidate), the undersigned, hereby declare under penalty of election falsification that my voting residence is in Precinct of the (Township) or (Ward and City, or Village) in the

county of, Ohio; that my post-office address is (Street and Number, if any, or Rural Route and Number) of the (City, Village, or post office) of , Ohio; that I am a qualified elector in the precinct in which my voting residence is located. I hereby declare that I desire to be a candidate for election to the office of in the (State, District, County, City, Village, Township, or School District) for the (Full term or unexpired term ending) at the General Election to be held on the day of ,

I further declare that I am an elector qualified to vote for the office I seek. Dated this day of ,

(Signature of candidate)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

I, , hereby constitute the persons named below a committee to represent me:

Name Residence

NOMINATING PETITION

We, the undersigned, qualified electors of the state of Ohio, whose voting residence is in the County, City, Village, Ward, Township or Precinct set opposite our names, hereby nominate as a candidate for election to the office of in the (State, District, County, City, Village, Township, or School District) for the (Full term or unexpired term ending) to be voted for at the general election next hereafter to be held, and certify that this person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

	Street Address or R.F.D. (Must use address on file with the board of elections)	City, Village or Township	Ward	Precinct	County	Date of Signing
Signature						

, declares under penalty of election falsification that such person is a qualified elector of the state of Ohio and resides at the address appearing below such person's signature hereto; that such person is the circulator of the foregoing petition paper containing signatures; that such person witnessed the affixing of every signature; that all signers were to the best of such person's knowledge and belief qualified to sign; and that every signature is to the best of such

person's knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to [section 3501.382 of the Revised Code](#).

(Signature of circulator)

(Address of circulator's permanent residence in this state)

(If petition is for a statewide candidate, the name and address of person employing circulator to circulate petition, if any)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

- The secretary of state shall prescribe a form of nominating petition for a group of candidates for the office of member of a board of education, township office, and offices of municipal corporations of under two thousand population.
- The secretary of state shall prescribe a form of statement of candidacy and nominating petition, which shall be substantially similar to the form of statement of candidacy and nominating petition set forth in this section, that will be suitable for joint candidates for the offices of governor and lieutenant governor.
- If such petition nominates a candidate whose election is to be determined by the electors of a county or a district or subdivision within the county, it shall be filed with the board of such county. If the petition nominates a candidate whose election is to be determined by the voters of a subdivision located in more than one county, it shall be filed with the board of the county in which the major portion of the population of such subdivision is located.
- If the petition nominates a candidate whose election is to be determined by the electors of a district comprised of more than one county but less than all of the counties of the state, it shall be filed with the board of elections of the most populous county in such district. If the petition nominates a candidate whose election is to be determined by the electors of the state at large, it shall be filed with the secretary of state.
- The secretary of state or a board of elections shall not accept for filing a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under [section 3513.30](#) or [3513.31 of the Revised Code](#) for any federal, state, or county office, if the nominating petition is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

History

125 v 713(784); 126 v 205(221); 127 v 741 (Eff 1-1-58); 130 v 833 (Eff 1-1-64); 134 v S 460 (Eff 3-23-72); 135 v H 662 (Eff 9-27-74); 137 v S 115 (Eff 3-10-78); 143 v H 7 (Eff 9-15-89); 143 v H 36 (Eff 1-1-90); [146 v S 9](#) (Eff 8-24-95); [148 v H 495](#) (Eff 5-9-2000); [149 v H 5](#) (Eff 8-28-2001); [149 v H 445](#). Eff 12-23-2002; 150 v H 1, § 1, eff. 3-31-05; [151 v H 66](#), § 101.01, eff. 9-29-05; [151 v H 3](#), § 1, eff. 5-2-06.

▼ Annotations

Notes

Amendment Notes

[151 v H 3](#), effective May 2, 2006, except amendments permitting and authorizing an attorney in fact to sign election documents on behalf of a disabled voter, effective June 1, 2006, confirmed the amendment by [151 v H 66](#); twice inserted “or by an attorney in fact acting pursuant to [section 3501.382 of the Revised Code](#)”; and added “of circulator’s permanent residence in this state” to the end of the “Address” entry of the form.

[151 v H 66](#), effective September 29, 2005, inserted “federal” in the final paragraph and made related changes.

Notes to Decisions

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The board of elections abuses its discretion in rejecting a candidate’s nominating petitions where the only omission was the day of the month upon which he signed them prior to their circulation among electors: [State ex rel. Yacobozzi v. Lorain County Bd. of Elections, 27 Ohio App. 3d 280, 500 N.E.2d 905, 1985 Ohio App. LEXIS 10342 \(Ohio Ct. App., Lorain County 1985\)](#).

☒ Circulators

Petition is not in compliance with [R.C. 3513.261](#) where the circulator is neither a de facto nor a de jure elector: [State ex rel. Schmelzer v. Board of Elections, 2 Ohio St. 3d 1, 440 N.E.2d 801, 1982 Ohio LEXIS 742 \(Ohio 1982\)](#).

☒ City charter

A municipal charter may provide for group nominating petitions for purely local officers: [State ex rel. Haffey v. Miller, 4 Ohio St. 2d 29, 33 Ohio Op. 2d 270, 211 N.E.2d 830, 1965 Ohio LEXIS 416 \(Ohio 1965\)](#).

Committee

Appointment of a committee to represent a candidate under [R.C. 3513.261](#) is not mandatory: [State ex rel. Phillips v. Lorain County Bd. of Elections, 62 Ohio St. 3d 214, 581 N.E.2d 513, 1991 Ohio LEXIS 3142 \(Ohio 1991\)](#).

Although [R.C. 3513.261](#) requires that a candidate for office name a committee to represent him on his nominating petitions, [R.C. 3513.261](#) does not require that a committee of five be named on the petitions: [State ex rel. Taylor v. Franklin County Bd. of Elections, 66 Ohio App. 2d 102, 20 Ohio Op. 3d 225, 421 N.E.2d 162, 1979 Ohio App. LEXIS 8497 \(Ohio Ct. App., Franklin County 1979\)](#), disapproved, [State ex rel. Phillips v. Lorain County Bd. of Elections, 62 Ohio St. 3d 214, 581 N.E.2d 513, 1991 Ohio LEXIS 3142 \(Ohio 1991\)](#).

Nominating petition

[R.C. 3513.261](#) did not bar a candidate's campaign for municipal court judge, based on the candidate's second nominating petition, which was filed after the candidate withdrew the candidate's first petition for an insufficient number of valid signatures, because [R.C. 3513.052\(G\)](#) permitted the candidate to timely withdraw the candidate's first petition and to file the candidate's second petition notwithstanding [R.C. 3513.261](#). [State ex rel. Coble v. Lucas County Bd. of Elections, 2011 Ohio 4550, 130 Ohio St. 3d 132, 956 N.E.2d 282, 2011 Ohio LEXIS 2189 \(Ohio 2011\)](#).

Defective nominating petition could not be cured by submitting an affidavit at a subsequent time. [R.C. 3513.052](#) does not prevent the application of [R.C. 3513.261](#) and [3513.05](#) to bar a second nominating petition for the same office at the same election after the first nominating petition has been ruled invalid: [State ex rel. Canales-Flores v. Lucas County Bd. of Elections, 2005 Ohio 5642, 108 Ohio St. 3d 129, 841 N.E.2d 757, 2005 Ohio LEXIS 2382 \(Ohio 2005\)](#).

The entering by a notary public, through mistake or inadvertence, of a date in a jurat different from the date upon which such notary actually administered the oath is not a matter of such substance and materiality as to invalidate the entire nominating petition and result in the disqualification of the candidate named in that part-petition paper from becoming a candidate for the office which he seeks: [State ex rel. Cline v. Henderson, 4 Ohio St. 2d 7, 33 Ohio Op. 2d 41, 211 N.E.2d 54, 1965 Ohio LEXIS 407 \(Ohio 1965\)](#).

Under the provisions of [R.C. 3513.261](#), where an independent candidate, prior to the circulation of his nominating petition, completely fills out the entire statement of candidacy down to the date of his signature, as well as the entire preamble of the petition, preceding the signatures of electors, and where, prior to filing such petition, the candidate signs the statement of candidacy and swears to the same before a person authorized to administer oaths, and such petition at the time of filing is complete in accord with the provisions of such statute, a board of elections is not authorized to reject the petition: [State ex rel. Leslie v. Duffy, 164 Ohio St. 178, 57 Ohio Op. 371, 129 N.E.2d 632, 1955 Ohio LEXIS 448 \(Ohio 1955\)](#).

Prohibited candidates

[R.C. 3513.254](#) does not bar an unsuccessful candidate for municipal office in a primary election from filing a nominating petition to be a school board candidate at the succeeding general election: [State ex](#)

[rel. Brinda v. Lorain County Bd. of Elections, 2007 Ohio 5228, 115 Ohio St. 3d 299, 874 N.E.2d 1205, 2007 Ohio LEXIS 2399 \(Ohio 2007\).](#)

✚ Protest to petition

It was an abuse of discretion for a board of elections not to allow a protest with regard to petition papers for the nomination of a certain person for the office of mayor of a city, where such papers contained signatures not affixed in the presence of persons signing them as circulators, and it was a further abuse of discretion not to allow a protest in toto as to all signatures appearing on petition papers containing signatures in the same handwriting: [Simon v. Board of Elections, 20 Ohio Op. 2d 221, 177 N.E.2d 687, 87 Ohio Law Abs. 594, 1961 Ohio App. LEXIS 818 \(Ohio Ct. App., Cuyahoga County 1961\).](#)

✚ Qualifications of candidate

[R.C. 3513.261](#) requires that a candidate be qualified to vote for the office he or she seeks: [State ex rel. Markulin v. Ashtabula County Bd. of Elections, 1992 Ohio 84, 65 Ohio St. 3d 180, 602 N.E.2d 626, 1992 Ohio LEXIS 3114 \(Ohio 1992\).](#)

An elector who had been continuously registered for thirty days or more, but who had not been registered at her current address for thirty days or more when she signed and circulated her statement of candidacy and circulator's statement, was an elector qualified to vote for the office she sought when she signed the declaration of candidacy and was a "qualified elector" when she signed the circulator's statement: [State ex rel. Walsh v. Board of Elections, 1992 Ohio 99, 65 Ohio St. 3d 197, 602 N.E.2d 638, 1992 Ohio LEXIS 2899 \(Ohio 1992\).](#)

✚ Signing by candidate

Writ of mandamus was denied because the candidate did not show that the secretary of state and the board abused their discretion in according less weight to his explanatory evidence than to the competing evidence because his explanation was inconsistent. He did not assert any specific date that he signed the petition paper in his briefs. [State ex rel. Simonetti v. Summit Cty. Bd. of Elections, 2017-Ohio-8115, 2017 Ohio LEXIS 2035 \(Ohio 2017\).](#)

Where relator failed to timely file his petition containing at least one originally signed and notarized statement of candidacy the board of elections is not under a clear legal duty to place his name on the ballot: [State ex rel. Hawkins v. Board of Elections, 28 Ohio St. 2d 4,6., 57 Ohio Op. 2d 63, 274 N.E.2d 563 \(1971\).](#)

It is now required under the provisions of this section that a written declaration of candidacy be signed by the candidate, and the prior sections requiring the written acceptance were repealed: [State ex rel. Troy v. Board of Elections, 170 Ohio St. 17,18., 9 Ohio Op. 2d 336, 161 N.E.2d 777 \(1959\).](#)

✚ Substantial compliance

Candidate did not substantially comply with the statute because the signature on the fourth petition paper was dated after the electors signed. Because the requirement that a candidate sign the statement of candidacy on the petition paper before the nominating petition is circulated advances two public interests: it guarantees adequate notice of the candidate's identity to electors and ensures that the petition will not be used for a candidacy other than the one intended by the signers, the interests do not relate merely to the "form" of a nominating petition but go to its very substance. [State ex rel. Simonetti v. Summit Cty. Bd. of Elections, 2017-Ohio-8115, 2017 Ohio LEXIS 2035 \(Ohio 2017\).](#)

[R.C. 3513.261](#) requires only substantial compliance with the form of the nominating petition and statement of candidacy: [State ex rel. Phillips v. Lorain County Bd. of Elections, 2001 Ohio 1627, 93 Ohio St. 3d 535, 757 N.E.2d 319, 2001 Ohio LEXIS 2756 \(Ohio 2001\)](#).

[R.C. 3513.261](#) requires only substantial compliance with the form of the statement of candidacy: [State ex rel. Osborn v. Fairfield County Bd. of Elections, 65 Ohio St. 3d 194, 602 N.E.2d 636, 1992 Ohio LEXIS 2893 \(Ohio 1992\)](#).

Finding of substantial compliance with [R.C. 3513.261](#): [State ex rel. Maurer v. Franklin County Bd. of Elections, 33 Ohio St. 3d 53, 514 N.E.2d 709, 1987 Ohio LEXIS 409 \(Ohio 1987\)](#).

Opinion Notes

ATTORNEY GENERAL OPINIONS

Pursuant to [R.C. 3513.05](#) and [3513.261](#), a board of elections may not certify as valid the petition of a candidate for county office who does not reside in the county in which he seeks office: [1984 Ohio Op. Att'y Gen. No. 025 \(1984\)](#).

Under [R.C. 3513.05](#) and [3513.261](#), an individual who files a petition to run for county office must be a resident of the county. There is, however, no general requirement that a person elected to county office must retain residence in the county that he was elected to serve: [1988 Ohio Op. Att'y Gen. No. 057 \(1988\)](#).

A nominating petition filed pursuant to [R.C. 1907.05.1](#) (now 1907.13) and this section is void where it states that the candidate is seeking election at the general election in November to a full term as county court judge and there is no full term for which an election could be held at that time. A favorable vote cast by the electors for such candidate for a full term as judge of the county court is ineffective; such favorable vote can not be construed to be an election of the candidate for an unexpired term where the question presented on the ballot was election for a full term: 1965 1965 Ohio Op. Att'y Gen. No. 7.

Research References & Practice Aids

Cross-References to Related Sections

Clerk of courts; nominating petitions, [RC § 1901.31](#).

Election falsification, [RC § 3599.36](#).

Election to unexpired term of judge, [RC § 1901.10](#).

Form of declaration of candidacy; petition for candidate, [RC § 3513.07](#).

Independent candidates desiring to fill unexpired term of office; filing deadline, [RC § 3513.31](#).

Qualifications of judges; terms; nominations; elections, [RC § 1907.13](#).

Statements of candidacy and nominating petitions for independent candidates, [RC § 3513.257](#).

Term of office of municipal court judge; nomination, [RC § 1901.07](#).

Ohio Administrative Code

Secretary of state—

Payment of filing fee by candidate. [OAC 111-5-01](#).

Nominating Petition

For Member of a Municipal Charter Commission

To be filed with the Board of Elections.

Constitution of the State of Ohio – Article XVIII, Section 8; R.C. 3513.261, 3501.38

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, _____, the undersigned, hereby declare under penalty of election falsification that
Name of Candidate
 my voting residence address is _____, Ohio _____,
Street Number and Address, if any, (or rural route and number) City or Village Zip Code
 and I am a qualified elector.

I further declare that I desire to be a candidate for election to the office of Member of the Charter Commission of
 the _____ of _____, Ohio at the _____ election to be held on the _____ day of
City or Village Name of City or Village Type of Election Day
 _____, _____
Month Year

I further declare that I am an elector qualified to vote for the office I seek.

Dated this _____ day of _____, _____
Day Month Year _____
Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, _____, hereby designate the persons named below as a committee to represent me:
Name of Candidate

Name	Residence

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city,
 village, or township set opposite our names, hereby nominate _____ as a candidate
Name of Candidate
 for election to the office of Member of the Charter Commission of the _____ of _____,
City or Village Name of City or Village
 Ohio and certify said person is, in our opinion, well qualified to perform the duties of the office or position to which
 the person desires to be elected.

Signatures on this petition must be from one county and must be written in ink. Signatures on this petition must be those of electors residing in the above name municipality

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
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6.				

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
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WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, _____, declare under penalty of election falsification that I reside at the address
Printed Name of Circulator
 appearing below my signature; that I am the circulator of the foregoing petition containing _____ signatures;
Number
 that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief
 qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person
 whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

Signature of Circulator

 Permanent Residence Address

 City or Village

 State

 Zip Code

Nominating Petition

For Member of a Municipal Charter Commission

To be filed with the Board of Elections.

Constitution of the State of Ohio – Article XVIII, Section 8; R.C. 3513.261, 3501.38

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, _____, the undersigned, hereby declare under penalty of election falsification that
Name of Candidate
 my voting residence address is _____, Ohio _____,
Street Number and Address, if any, (or rural route and number) City or Village Zip Code
 and I am a qualified elector.

I further declare that I desire to be a candidate for election to the office of Member of the Charter Commission of
 the _____ of _____, Ohio at the _____ election to be held on the _____ day of
City or Village Name of City or Village Type of Election Day
 _____,
Month Year

I further declare that I am an elector qualified to vote for the office I seek.

Dated this _____ day of _____, _____
Day Month Year _____
Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, _____, hereby designate the persons named below as a committee to represent me:
Name of Candidate

Name	Residence

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city,
 village, or township set opposite our names, hereby nominate _____ as a candidate
Name of Candidate
 for election to the office of Member of the Charter Commission of the _____ of _____,
City or Village Name of City or Village
 Ohio and certify said person is, in our opinion, well qualified to perform the duties of the office or position to which
 the person desires to be elected.

Signatures on this petition must be from one county and must be written in ink. Signatures on this petition must be those of electors residing in the above name municipality

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
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Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
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WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, _____, declare under penalty of election falsification that I reside at the address
Printed Name of Circulator
 appearing below my signature; that I am the circulator of the foregoing petition containing _____ signatures;
Number
 that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief
 qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person
 whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

Signature of Circulator

 Permanent Residence Address

 City or Village

 State

 Zip Code

Nominating Petition

For Member of a Municipal Charter Commission (Several Candidates)

To be filed with the Board of Elections.

Constitution of the State of Ohio – Article XVIII, Section 8; R.C. 3513.261, 3501.38

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

To the Board of Elections of _____ County, Ohio:
Name of County Board of Elections

We, the undersigned, hereby declare under penalty of election falsification that our voting residence addresses are set opposite our names below and that we are qualified electors. We further declare that we desire to be candidates for election to the office of Member of the Charter Commission of the _____ of _____ Ohio
City or Village Name of City or Village
 at the _____ election to be held on the _____ day of _____, _____.
Type of Election Day Month Year

We further declare that we are electors qualified to vote for the office we seek.

Dated this _____ day of _____, _____.
Day Month Year

Under the provisions of Article XVIII, Section 8 of the Constitution of Ohio, there are fifteen (15) Members of the Charter Commission.

	Name of Candidate	Voting Residence Street Number and Address	City or Village	Zip Code
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WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Signature of Candidate	Signature of Candidate
1.	9.
2.	10.
3.	11.
4.	12.
5.	13.
6.	14.
7.	15.
8.	

We hereby designate the persons named below as a committee to represent us:

Name	Residence

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township set opposite our names, hereby nominate the above named candidates to the office of Member of the Charter Commission of the _____ of _____, County of _____, Ohio and certify said persons are, in our opinion, well qualified to perform the duties of the office or position to which they desire to be elected.

City or Village Name of City or Village
County

Signatures on this petition must be from one county and must be written in ink. Signatures on this petition must be those of electors residing in the above named municipality.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
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Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
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WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, _____, declare under penalty of election falsification that I reside at the address
Printed Name of Circulator
 appearing below my signature; that I am the circulator of the foregoing petition containing _____ signatures;
Number
 that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief
 qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person
 whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

Signature of Circulator

 Permanent Residence Address

 City or Village State Zip Code