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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**S.J.R. 1**  
**134<sup>th</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for S.J.R. 1's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsor:** Sen. Thomas

**Local Impact Statement Procedure Required:** No

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### **Highlights**

- The resolution proposes to submit for state voters' approval at the November 2, 2021 general election, a constitutional amendment to amend Section 6 of Article I of the Ohio Constitution to prohibit involuntary servitude as punishment for a crime.
- The Secretary of State will incur one-time ballot advertising costs, probably in the hundreds of thousands of dollars. The costs are paid for with cash transferred, upon approval of the Controlling Board, from the state's Emergency Purposes/Contingencies Fund (Fund 5KM0) to the Statewide Ballot Advertising Fund (Fund 5FH0), which is part of the Secretary of State's operating budget.

### **Detailed Analysis**

The resolution proposes an amendment to the Ohio Constitution to amend Section 6 of Article I of the Constitution of the state of Ohio to prohibit involuntary servitude in Ohio for the punishment of a crime.

#### **Ballot advertising**

The Secretary of State will incur costs for ballot advertising in accordance with Section 1 of Article XVI of the Ohio Constitution, which requires that the ballot language, the explanations, and arguments, if any, be published once a week for three consecutive weeks preceding the election in at least one newspaper of general circulation in each county of the state where a newspaper is published. The ballot advertising costs are paid for with cash transferred, upon approval of the Controlling Board, from the state's Emergency Purposes/Contingencies Fund (Fund 5KM0) to the Statewide Ballot Advertising Fund (Fund 5FH0), which is part of the Secretary of State's operating budget.

Ballot advertising costs will depend on the length of the ballot language, explanations, and arguments. As a guide, the ballot advertising costs were about \$613,000 for the three statewide issues that appeared on the November 2015 ballot, \$492,000 for the two statewide issues on the November 2017 ballot, and \$410,000 for one statewide issue on the November 2018 ballot. Advertising costs are variable and largely depend on the length of the proposed amendment, the explanation, and the arguments for and against the ballot issue.

## **Indirect effects**

### **Community service work**

If the proposed amendment is approved by the voters, local courts' current sentencing authority may be limited in relation to requiring community service work as part of an offender's sentence, even if performed at the offender's request in lieu of other sanctions. Under current law, a court may require an offender to perform community service work as part of the offender's sentence for a misdemeanor or felony conviction or guilty plea. A court also may permit an offender to satisfy the payment of a fine or other costs imposed for the offense by performing community service work. The Ohio Supreme Court has observed that an offender's agreement to perform community service work in lieu of another sanction is "not voluntary in the sense that a private citizen's work is voluntary in that he may or may not, as he chooses, enter into a contract for hire with respect to his labor."<sup>1</sup> As such, it is possible that community service work, even if performed at the offender's request in lieu of another sanction, could conflict with the prohibition against involuntary servitude as punishment for a crime.

As a result of this limitation, sentencing courts may be faced with few sentencing options, thus resulting in the imposition of costlier sentencing options, including more intensive supervision or jail terms.

### **Prison labor practices**

With respect to current prison labor practices in Ohio, it is not clear whether, or to what extent, amending Ohio's Constitution to ban involuntary servitude as punishment for a crime would impact those practices. The Ohio Constitution under a separate provision would continue to authorize the General Assembly to regulate the employment of prisoners sentenced to Ohio penal institutions and reformatories:

Laws may be passed providing for and regulating the occupation and employment of prisoners sentenced to the several penal institutions and reformatories in the state.<sup>2</sup>

Current Ohio law requires the Department of Rehabilitation and Correction (DRC) to establish work programs in some form of labor for as many prisoners as possible who are in DRC's custody. It exempts prisoners who are unable to perform labor because of health problems, security requirements, routine processing, disciplinary action, or other reasonable

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<sup>1</sup> *Republic-Franklin Ins. Co. v. City of Amherst*, 50 Ohio St.3d 212, 216 (1990) (internal quotations omitted).

<sup>2</sup> Ohio Constitution, Article II, Section 41.

circumstances, or because they are engaged in educational, vocational, or other training. Inmates receive compensation for participating in work programs.<sup>3</sup>

As inmates under certain circumstances may not be required to work, and those who must work are generally compensated, it is not clear whether, or to what extent, Ohio's current prison labor practices would be considered "involuntary servitude."<sup>4</sup> As such, the extent to which this proposed amendment to Ohio's Constitution would affect Ohio's current prison labor practices is not clear.

### **County jail labor practices**

The extent to which the proposed amendment to Ohio's Constitution would affect jails operated at the local level is similarly not clear. Any impact would depend upon a number of variables including whether the jail currently employs the use of inmate labor pursuant to its own written policies and procedures.<sup>5</sup>

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<sup>3</sup> Ohio Administrative Code (O.A.C.) 5120-3-05 and 5120-3-08 and *OPI Inmate Compensation and Benefits*, Ohio Department of Rehabilitation and Correction, <https://drc.ohio.gov/Portals/0/Policies/DRC%20Policies/25-OPI-11%20Apr%202019.pdf>.

<sup>4</sup> See R.C. 2905.31 and *State v. Logan*, 2017-Ohio-8932 (3<sup>rd</sup> Dist., December 11, 2017) for a definition of involuntary servitude under Ohio law.

<sup>5</sup> O.A.C. 5120:1-8-02.