

THE HISTORY OF THE OHIO CONSTITUTION

1802 Constitution

The Ohio territory's population grew steadily in the 1790s and early 19th century. Congress passed an enabling bill to establish a new state, which President Thomas Jefferson signed into law on April 30, 1802. A state constitutional convention was held in November 1802 in Chillicothe, Ohio, and it adopted what became known as the 1802 Constitution. See Ohio Constitutional Convention (1802). Largely due to the perception that territorial governor Arthur St. Clair had ruled heavy-handedly, the constitution provided for a "weak" governor and judiciary, and vested virtually all power in a bicameral legislature, known as the General Assembly. Congress simply recognized the existence of the "state of Ohio" rather than passing a separate resolution declaring Ohio a state as it had done and would do with other new states. On February 19, 1803, President Jefferson signed the bill into law. It provided that Ohio "had become one of the United States of America," and that Federal law "shall have the same force and effect within the said State of Ohio, as elsewhere within the United States."

Many tax defiers use this as an argument that Ohio was not a state until 1953. But see *Bowman v. United States*, 920 F. Supp. 623 n.1 (E.D. Pa. 1995) (discussing the 1953 joint Congressional resolution that confirmed Ohio's status as a state retroactive to 1803).^[1]

The first General Assembly first met in Chillicothe, the new state capital, on March 1, 1803. This has come to be considered the date of Ohio statehood.

1851 Constitution

By law, Ohio voters are asked every twenty years whether a new constitutional convention should be called. In the early decades of statehood, it became clear that the General Assembly was disproportionately powerful as compared to the executive and judicial branches. Much of state business was conducted through private bills, and partisan squabbling greatly reduced the ability of state government to do its work. The legislature widely came to be perceived as corrupt, subsidizing private companies and granting special privileges in corporate charters. State debt also exploded between 1825 and 1840. A new constitution, greatly redressing the checks and balances of power, was drafted by a convention in 1850-51, as directed by the voters, and subsequently adopted in a statewide referendum on June 17, 1851, taking effect on September 1 of that year. This is the same constitution under which the state of Ohio operates. The later "constitutions" were viewed as such, but in reality were large scale revisions.

A constitutional convention in 1873, chaired by future Chief Justice of the United States Morrison R. Waite, proposed a new constitution that would have provided for annual sessions of the legislature, a veto for the governor which could be overridden by a three-fifths vote of each house, establishment of state circuit courts, eligibility of women for election to school boards, and restrictions on municipal debt. It was soundly defeated by the voters in August 1873.

1912 Constitution

In the Progressive Era, pent-up demand for reform led to the convening of another constitutional convention in 1912. The delegates were generally progressive in their outlook, and noted Ohio historian George W.

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Knepper wrote, "It was perhaps the ablest group ever assembled in Ohio to consider state affairs." Several national leaders addressed the convention, including President William Howard Taft, an Ohioan; former president (and Bull Moose Party candidate) Theodore Roosevelt; three-time presidential candidate William Jennings Bryan; California's progressive governor Hiram Johnson; and Ohio's own reform-minded governor, Judson Harmon.

Recalling how the 1873 convention's work had all been for naught, the 1912 convention drafted and submitted to the voters a series of amendments to the 1851 Constitution. The amendments expanded the state's bill of rights, provided for voter-led initiative and referendum, established civil service protections, and granted the governor a line-item veto in appropriation bills. Other amendments empowered the legislature to fix the hours of labor, establish a minimum wage and a workers compensation system, and address a number of other progressive measures. A home rule amendment was proposed for Ohio cities with populations over 5,000.

On September 3, 1912, despite strong conservative opposition, voters adopted 33 of the 41 proposed amendments. It was so sweeping a change to the 1851 Constitution that most legal scholars consider it to have become a new "1912 Constitution." Among the eight losing proposed amendments were female suffrage, the use of voting machines, the regulation of outdoor advertising and abolition of the death penalty. Voters also rejected a proposal to strike the word "white" from the 1851 Constitution's definition of voter eligibility. Although blacks could vote in Federal elections in Ohio due to the Fifteenth Amendment, the color bar for voting in state elections was not abolished until 1923.^[2]

Current constitution

With numerous later amendments, the 1851/1912 Constitution remains the basic law of the state to this day. It has one of the shortest preambles of any state constitution:

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our general welfare, do establish this Constitution.

The current state constitution contains the following articles:

- Preamble
- Art. I - * Art. II - Legislative
- Art. III - Executive
- Art. IV - Judicial
- Art. V - Elective Franchise
- Art. VI - Education
- Art. VII - Public Institutions
- Art. VIII - Public Debt and Public Works
- Art. IX - Militia
- Art. X - County and Township Organizations
- Art. XI - Apportionment
- Art. XII - Finance and Taxation

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- Art. XIII - Corporations
- Art. XIV - Jurisprudence (repealed)
- Art. XV - Miscellaneous
- Art. XVI - Amendments
- Art. XVII - Elections
- Art. XVIII - Municipal Corporations
- Schedule

The Ohio Constitution's Bill of Rights is substantially similar to its Federal counterpart, but also includes the right to alter, reform or abolish government; rights of conscience and education; rights for victims of crime; a prohibition of imprisonment for debt; and the right to payment of damages for wrongful death.

In 1995 Article 5, Section 8 was struck down as unconstitutional by the Supreme Court of the United States in *U.S. Term Limits, Inc. v. Thornton*. (It had imposed term limits on federal representatives and senators.)

Source: http://en.wikipedia.org/wiki/Constitution_of_Ohio