

# Legal Questions and Answers about Issue 2, The Ohio Livestock Care Standards Board Ballot Issue

Peggy Kirk Hall  
Director of Agricultural Law  
OSU Extension Agricultural and Resource Law Program



## *What is Issue 2?*

Issue 2 is a ballot issue that Ohio voters will decide in the November 3, 2009 general election. The issue proposes an amendment to the Ohio Constitution that addresses the care of livestock in Ohio.

## *How did Issue 2 get on the ballot?*

There are two ways to propose an amendment to the Ohio Constitution: by citizen initiative or by a joint resolution passed by Ohio's legislature, the General Assembly. Both methods require that the proposal be placed on the ballot for majority approval by Ohio voters. Issue 2 arose through a joint resolution in the General Assembly. The Ohio House of Representatives and the Ohio Senate both approved the proposed constitutional amendment. As required by law, the Ohio General Assembly then submitted the enacted resolution to the Ohio Secretary of State, who chairs the Ohio Ballot Board. The five member Ballot Board reviewed the resolution and developed a summary of the joint resolution for the ballot. The Ohio Attorney General certified that the Ballot Board's summary is an accurate depiction of the joint resolution, and the summary will appear as Issue 2 on the November 3, 2009 general election ballot. You may view the joint resolution passed by the Ohio legislators [here](#), which is the actual language that would be included in the Ohio Constitution if approved on November 3, 2009. The Ballot Board's summary of the joint resolution, which is the actual language that will appear on the ballot as Issue 2, is [here](#). To learn more about the ballot initiative procedure in Ohio, visit [this page](#).

## *Is a constitutional amendment the same as a law?*

Yes. Ohio's Constitution is one source of law; Ohio also has statutory law (the Ohio Revised Code), administrative law (agency rules), and common law (written court decisions). However, the Constitution is Ohio's "supreme" law because it establishes the framework for Ohio's governmental structure, sets forth powers of the government, provides for fundamental individual rights, and is difficult to change. Only a majority vote by Ohio voters can change the Ohio Constitution.

## *What does Issue 2's proposed constitutional amendment do?*

Issue 2 proposes to amend the Ohio Constitution by including language in the Constitution that:

- Creates an Ohio Livestock Care Standards Board that would have the authority to establish standards for livestock care in Ohio.
- Gives the Ohio Department of Agriculture the authority to oversee and enforce the livestock care standards.
- Grants the Ohio General Assembly the authority to enact laws necessary for creating the Livestock Care Standards Board and overseeing, implementing and enforcing its standards.

## *Who would be on the Ohio Livestock Care Standards Board?*

Issue 2 establishes a thirteen member Livestock Care Standards Board. No more than seven members on the board may be of the same political party. The Ohio General Assembly would have the power to set the terms of office for the Board members and determine any conditions for the Board members' service. The proposal states that the Board would consist of:

- The director of the department of agriculture, who would serve as chair of the Board;
- Ten members appointed by the Governor with Senate approval, which must include: one family farm representative, one member knowledgeable about food safety in Ohio; two members representing statewide farmer organizations; one veterinarian licensed in Ohio; the State Veterinarian; the dean of an Ohio college or university's agriculture department; two members of the public representing Ohio consumers; one member representing a county humane society
- One family farmer appointed by the Speaker of the Ohio House of Representatives.
- One family farmer appointed by the President of the Ohio Senate.

## *What is a “family farmer” for purposes of Issue 2?*

Issue 2 does not contain a definition of “family farmer,” nor does Ohio’s statutory laws.

## *How would the Board create the livestock care standards?*

Issue 2 does not specifically detail how the Livestock Care Standards Board would go about creating the livestock care standards, but it does state that when developing the standards, the Board must consider factors that include, but are not limited to, agricultural best management practices for such care and well-being, biosecurity, disease prevention, animal morbidity and mortality data, food safety practices, and the protection of local, affordable food supplies for consumers. Issue 2 also directs the Ohio legislature to enact laws to help the Board carry out its duties, which would allow the legislature to establish a process for the Board to follow when developing the livestock care standards.

## *Who would enforce the livestock care standards?*

According to Issue 2, the state department that regulates agriculture (which is currently the Ohio Department of Agriculture) would have the authority to implement and enforce the standards developed by the Livestock Care Standards Board, and could create administrative rules and regulations necessary to do so.

## *How much will a Livestock Care Standards Board cost and how will it be funded?*

The Office of Budget and Management has prepared a fiscal analysis for Issue 2. The analysis projects costs based upon similar Ohio boards and programs. OBM assumes that funding will derive from the state’s General Revenue Fund, since the proposal does not designate a funding source. See the OBM’s cost projections [here](#).

## *Do other Ohio laws affect the care of farm animals?*

Yes. Ohio currently has laws related to the care of domestic animals, commonly referred to as our animal cruelty laws. The laws prohibit acts such as torture; confinement without adequate shelter, fresh air, food or water; and unnecessary or cruel harm to an animal. Unless the Ohio General Assembly changes them, these laws will remain in effect and will apply to farm animals even if Issue 2 passes. The Ohio General Assembly could choose to amend the existing animal cruelty laws to include the livestock care standards developed by the Board. See Ohio's animal cruelty laws [here](#).

## *If Issue 2 passes, could it ever be changed?*

Yes, but because Issue 2 proposes an amendment to the Ohio Constitution, it could only be changed by another proposed constitutional amendment that must be approved by Ohio voters.

## *How does Ohio's Issue 2 differ from Proposition 2 that passed last year in California?*

The ballot initiative known as Proposition 2 passed by California voters last fall amended California's statutory law. It was not a constitutional amendment like Ohio's Issue 2. The California law does not address the care of all livestock, but instead prevents certain actions for certain types of livestock. California's law prohibits the tethering or confinement of pregnant pigs, veal calves and egg-laying hens in a way that prevents the animal from lying down, standing up, fully extending its legs or turning around freely for a majority of the day.

## *Could a ballot proposal like California's Proposition 2 come to Ohio if Issue 2 passes?*

In addition to allowing initiatives that amend the Constitution, Ohio law allows citizens to propose new statutory laws through the ballot initiative process. A person or group could use the ballot initiative to propose a law like California's Proposition 2 in the future, and the proposal could be placed on the general election ballot for voter approval. If Issue 2 passes, however, a future ballot proposal that conflicts with Issue 2's constitutional amendment could be challenged legally.

## *Do other states have laws like the one proposed by Issue 2?*

A number of states have addressed the issue of farm animal care, but none have enacted a law similar to Ohio's Issue 2. Rather, the laws follow California's approach of prohibiting certain practices for certain types of livestock. Only Florida has enacted a constitutional amendment on farm animal care, and the Florida provision applies only to confinement of pregnant pigs. For links to other state laws on farm animal welfare, see our website at <http://aede.osu.edu/programs/aqlaw> or visit Michigan State University's Animal Legal & Historical Center at <http://www.animallaw.info/>.

---

All educational programs conducted by Ohio State University Extension are available to clientele on a nondiscriminatory basis without regard to race, color, creed, religion, sexual orientation, national origin, gender, age, disability or Vietnam-era veteran status.

Keith L. Smith, Associate Vice President for Ag. Adm. and Director, OSU Extension.

TDD No. 800-589-8292 (Ohio only) or 614-292-1868

