

[PDF File](#)

THE ROLE OF STATE GOVERNMENTS



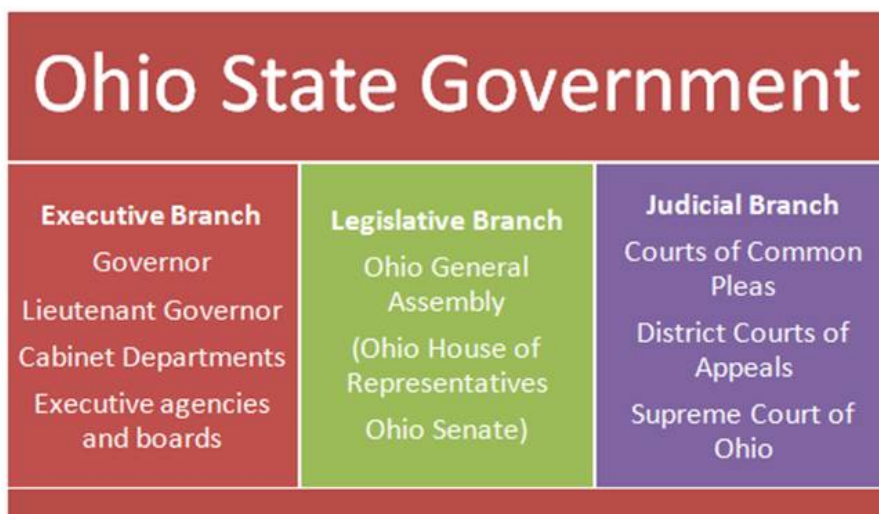
Ohio State House: Photo Courtesy of the Ohio Attorney General's Office

Overview

Americans live under the jurisdiction of the federal government, but they are also subject to the laws of their individual states. Each state has developed a constitution based on its unique history, geography, population and resources. They act within the framework of the U.S. Constitution and offer citizens additional ways of interacting with the democratic process. State residents balance their guaranteed rights with the responsibilities of citizenship. In this unit, we will use Ohio as an example of how state governments operate and adapt to the changing needs of their people.

State Governments in General

All state governments have several features in common. Each one represents the supreme law of the state just as the U.S. Constitution embodies the supreme law of the nation. The layout of most state constitutions is patterned after the U.S. Constitution; they customarily include a preamble, several articles and a procedure for amendments. Like the federal Constitution, state constitutions are considered living documents that can be changed in both formal and informal ways. They incorporate the basic principles associated with American government, such as popular sovereignty and limited government. Power is carefully divided among the executive, legislative and judicial branches, as demonstrated by the example of Ohio in the graphic below.



However, there are major differences between state constitutions and the U.S. Constitution. State instruments of government tend to be much longer and more detailed than their national counterpart. For example, the Ohio State Constitution contains nearly 37,000 words, which means that it is over five times longer than the federal Constitution. It is also easier to amend than the U.S. Constitution so the Ohio State Constitution has been changed more often. Rather than adding amendments in a numbered list following the articles, Ohio makes note of them within the context of the document. The same is true when an amendment is repealed. This makes for some very complex reading. Another obvious difference is that the bill of rights is directly after the preamble and is listed as Article 1. Many states, including Ohio, have chosen to add a **schedule** following the articles in their constitutions. This section clarifies the time when the document goes into effect and the method of ratification.



Go to Questions 1-4.

Updating Early State Constitutions

The first state constitutions were comparatively short and sometimes reflected a narrow perspective. As the United States has experienced social, economic and political changes, many state governments rewrote their constitutions a number of times, and Ohio was no exception.

Ohio Constitution of 1803

Ohio drafted its first constitution in November of 1802 as part of the process to become a state. The constitutional convention called for this purpose was dominated by the Democratic-Republican Party. Unlike the Federalists, these politicians favored a scaled-down government with limited powers. The responsibility for governing primarily rested with the General Assembly, consisting of the Ohio House of Representatives and the Ohio Senate. Key judicial and executive officers were appointed by the legislature and were not directly elected by the citizens. Because Arthur St. Clair, the Governor of the Northwest Territory, did not respect or work well with the legislature representing the Territory, the constitutional convention believed it was necessary to restrict the power of the new state's executive branch. Ohio's first governors had no authority to veto acts of the legislature and were limited to two-year terms. The judicial branch consisted of the State Courts of Common Pleas and the Ohio State Supreme Court, which was required to meet in every county of the state at least once a year. In spite of its flaws, the Ohio Constitution of 1803 was one of the most democratic state constitutions of its time. All Caucasian men were given the right to vote, as long as they paid taxes and helped to maintain the state's roads when asked. Following the Northwest Ordinance, the Ohio Constitution of 1803 prohibited slavery but did not go so far as to extend suffrage to African-American men. By 1850, however, the need for a new state constitution had become apparent for a number of reasons. Randolph C. Downes, author and historian, identifies several of them in the following excerpt from his book, Ohio's Second Constitution.

Randolph C. Downes: Ohio's Second Constitution

Fifty years is a long time to go without making some changes in any constitution. This was especially true for the first 50 years of the 19th century in Ohio. In 1802 the population was 45,028; in 1850 it was 1,980,329. In 1803 the main method of transportation was by foot or by horseback; in 1850 railroads, steamboats and canals were vying for supremacy in the field of commerce. In 1803 there were no large cities in the state; in 1850 Cincinnati, Queen City of the West, with a population of 115,435 was a great meat packing center. Cleveland, with a population of 48,099 was experiencing its commercial and industrial beginnings. Toledo, convinced of its destiny as the "future great city of the world," was vigorously trying to throw off the shackles of the Black Swamp and other retarding influences.

It was clearly necessary to adjust the rural Constitution of 1803 into gear with new urban, industrial and commercial conditions. By 1850 there were several rural features which stuck out like sore thumbs in the old constitution. One was the provision that the legislature could create counties with an area of small as 400 square miles. This was based on travel conditions slower than the horse and buggy; it went to the hike-and-horseback days. Another rural feature was that the state Supreme Court had to hold annual sessions in each county. By 1850 there were 87 counties.

This was imposing an unbearable job on the justices. Transportation facilities in 1850 were such that it was justifiable to expect the people to come to the Supreme Court for justice rather than to require the Supreme Court to come to the people. In 1847 Clement L. Valiadigham of Dayton drew an amazing picture of the conversion of the judiciary into "a flying express," having a criminal hung in Cleveland one day, and the next day sentencing a group in Cincinnati to the penitentiary.

Another flaw which had become apparent by 1850 was the excessive power given to the legislature. In 1802 this had been part of the reaction to the excessive powers given of territorial governor, Arthur St. Clair. The new constitution had deprived the governor of the power to veto laws. It gave the state legislature power to appoint the secretary of state, the state treasurer, the state auditor, the members of the state Supreme Court as well as all the judges of the Court of Common Pleas in each county. In addition to the right to create new counties, it had the responsibility of drawing representative districts of electing members of the legislature and Congress. It had power over such petty matters as granting divorces and incorporating businesses, churches and lodges. It could block the movement to cut its powers by constitutional amendment by refusing a two-third majority to a call for a constitutional convention.

Ohio Constitution of 1851

The Constitution of 1851 made a number of significant changes in Ohio government. It gave voters the right to elect high-ranking officials and judges rather than have them appointed by the General Assembly. The new constitution banned retroactive legislation, known as ex post facto laws, and demanded uniform regulations throughout the state. Since two levels within the state judicial branch were insufficient to process the increasing number of cases, State District Courts of Appeals were added to the justice system. The Ohio State Supreme Court was no longer required to meet in the various counties around the state; this increased its efficiency and saved valuable time. The new constitution banned poll taxes and stipulated that citizens were to be taxed at a uniform rate. It also permitted the General Assembly to borrow money when necessary and stated a specific limit on the amount of debt it was able to acquire.

Comparing Ohio Constitutions	
Constitution of 1803	Constitution of 1851
<p>The Judges of the Supreme Court, the President and the Associate Judges of the Courts of Common Pleas shall be appointed by a joint ballot of both Houses of the General Assembly, and shall hold their offices for the term of seven years, if so long they behave well. The Judges of the Supreme Court and the President of the Court of Common Pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this State or the United States.</p> <p>Article 3: Section 8</p>	<p>The Supreme Court shall consist of five judges, a majority of whom shall be necessary to form a quorum, or to pronounce a decision. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus, and procedendo, and such appellate jurisdiction as may be provided by law. It shall hold at least one term, in each year, at the seat of government, and such other terms, at the seat of government or elsewhere, as may be provided by law. The Judges of the Supreme Court shall be elected by the electors of the State at large.</p> <p>Article 4: Section 2</p>

Although this document solved a number of problems, the Ohio Constitution of 1851 remains a work in progress. It requires that voters be asked every twenty years whether a constitutional convention is needed. Although the Ohio constitution has not been updated in its entirety since 1851, conventions were held in 1873 and 1912. At these meetings, delegates proposed the addition of several amendments and the repeal of some provisions. You can view the full text of the documents discussed in this section by clicking on the buttons below.

Ohio
Constitution
of 1803

Ohio
Constitution
of 1851



Go to Questions 5 through 12.

Initiative, Referendum and Recall

As the Progressive Movement spread across the United States in the early 1900s, several states, especially in the Midwest and the West, looked for ways to increase the direct participation of citizens in the lawmaking process on the state level. This brought about the adoption of procedures known as initiative, referendum and recall.

- **Referendum:** The goal of a referendum is to give voters the opportunity to approve or to reject legislation that has been already passed by a state legislature. In Ohio, the process begins with a petition signed by at least 6% of the state's registered voters with a minimum of 3% from forty-four different counties. This must be accomplished within ninety days of the Governor signing the law and registering it with the Secretary of State. Certain laws, however, are exempt from referendum. These include emergency laws, levies and appropriations for current expenses.
- **Initiative:** The initiative process also begins with a petition and a specified number of signatures. The goal is to propose a new law or state constitutional amendment that the legislature has not already passed. Ohioans can begin this procedure by writing a draft of the proposal and

collecting 1,000 signatures. These are submitted to the Ohio Secretary of State and the Attorney General for verification. Then, signatures are collected again from at least 10% of the number of voters in the last gubernatorial election with representation from forty-four of Ohio's eighty-eight counties. These signatures must be presented to the Ohio Secretary of State at least 125 days prior to the next general election. Once everything is in order, the Ohio Ballot Board then prepares to place the proposal on the ballot.



Wisconsin's Attempt to Recall Governor Walker

- **Recall:** In fifteen states, not including Ohio, voters can remove the governor or state legislators from office through the process of recall. This procedure also begins with a petition. If successful, a special election is held to remove the individual from office with a majority vote. In a recent case, Michigan voters forced two state senators out of office for voting for tax increases.



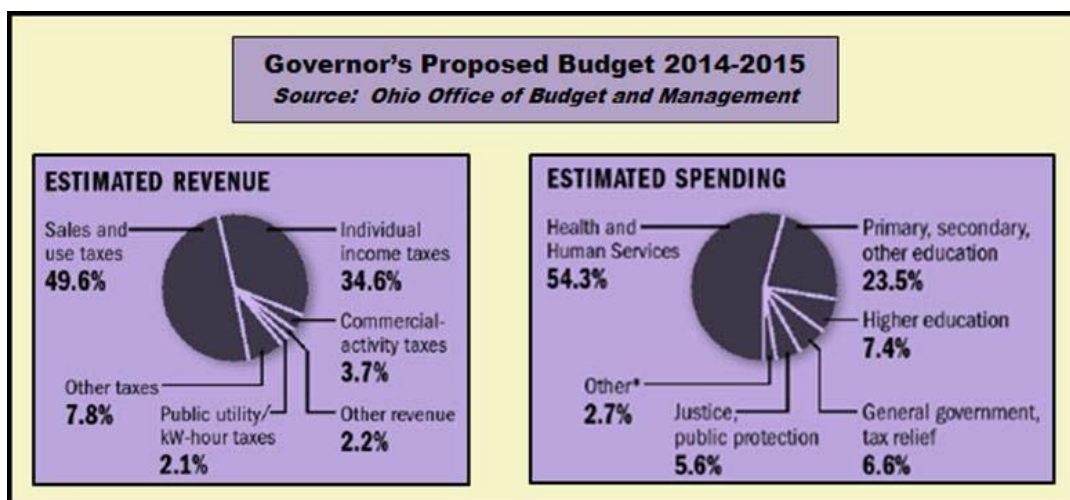
Go to Questions 13 through 15.

State Agencies

Ohio, along with the other states, provides services, protection and information that give citizens the opportunity to lead healthy and productive lives. This duty is carried out by over 150 state agencies, departments, boards and commissions. Each one offers a means for Ohioans to interact with state government and to influence public policy. Some agencies, such as the Ohio Environmental Protection Agency and Ohio Homeland Security, work directly with their counterparts on the federal level. Others are involved with issues more specific to Ohio. The chart below lists several examples of state agencies and their functions.

Examples of Ohio's State Agencies	
State Highway Patrol	This statewide agency is responsible for enforcing traffic and criminal laws on public roads and state highways.
Elections Commission	The commission enforces Ohio's election laws, monitors campaign finances and promotes fair campaign practices.
Job and Family Services	The agency provides public assistance to Ohio citizens in the areas of housing, food, healthcare and job training.
Department of Taxation	This department is responsible for collecting taxes from citizens and businesses within the state. This includes sales tax, income tax and excise taxes.
Department of Agriculture	The department assures the safety of Ohio's food supply, protects health of food animals and assists Ohio farmers.
Bureau of Motor Vehicles	The bureau is responsible for issuing operators' licenses, license plates and vehicle registrations. They also advise drivers on other requirements, such as insurance and residency.
Department of Education	The ODE sets the standards for public education within the state and oversees the requirements for teacher licensure.
Public Utility Commission of Ohio	The PUCO assures adequate, safe and reliable public utility services at a fair price. This includes electric, natural gas, telephone and water services.

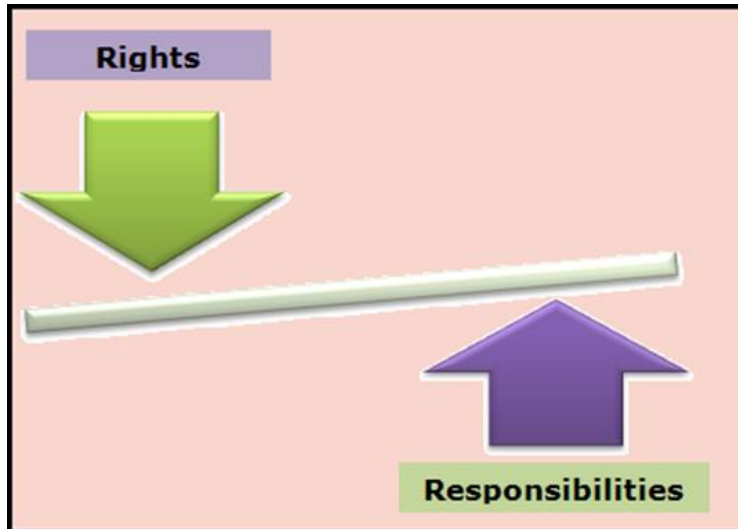
State governments, however, must be able to pay for the services that they offer. Just like the federal government, states rely on taxes for a large portion of their revenue. In most states, sales taxes are the greatest single source of funds. Other forms include taxes on property, specific products, income and corporations. All states generate operating money by issuing licenses, charging fees and collecting fines. State-regulated gambling and lotteries are also used to supply additional funding. Even with all of these financial resources at their disposal, states often borrow money to finance large projects and to meet emergencies. The pie charts below represent revenue and expenditures as estimated by the Office of Budget and Management for the state of Ohio in 2014-2015.



Go to Questions 16 through 18.

Rights v Responsibilities

On all levels of government, Americans are proud of their right to participate in the democratic process, to exercise their basic freedoms and to make choices that improve their standard of living. These privileges are balanced, however, with the responsibilities of citizenship. U.S. citizens can select their own government officials by engaging in their right to vote, but their ballots are only effective if they are well-informed about the candidates and the issues. Individual liberties, such as freedom of speech and freedom of the press, are limited by other people's rights. For trial by jury to exist, citizens must be willing to testify in court and to serve on juries. An Ohioan's right to a public education requires a respect for established school procedures and policies. Good citizenship is also expressed through a willingness to serve. This includes joining the military, running for public office and supporting community improvement projects.



Go to Questions 19 and 20.

What's Next?

In this unit, you read about state governments and their connection to the federal system. State constitutions reflect the U.S. Constitution but contain provisions unique to their own individual circumstances. Citizens work within their states to solve problems and to create public policy, but they can also improve their communities by working through local channels. In the next unit, you will read about a specific issue and one town's attempt to resolve it. Before moving on, review the terms in Unit 16, and complete Questions 21 through 30.



Go to Questions 21 through 30.



Below are additional educational resources and activities for this unit.

[Unit 16 Advance Organizer](#)

[Unit 16 Application Activity](#)