**WRITTEN STATEMENT AGAINST SENATE RESOLUTION 5**

Chairman Coley and Committee Members,

In Arizona State Legislature v. Arizona Independent Commission the Supreme Court held that the U.S. Constitution does not prohibit the voters from creating an independent commission to draw Congressional District lines. Like the Arizona state constitution, Ohio’s constitution grants its citizens the right to legislate. Article two provides that the legislative power of the state shall be vested in a General Assembly consisting of a Senate and House of Representatives but the “people reserve to themselves the power to propose to the General Assembly laws and amend­ments to the constitution, and to adopt or reject the same at the polls on a ref­erendum vote as hereinafter provided….; and in­dependent of the General Assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitations expressed in the constitution, on the power of the Gen­eral Assembly to enact laws, shall be deemed limitations on the power of the people to enact laws.” The Initiative and referendum are two (2) rights reserved to the people in the Ohio constitution. It should be noted here that Sen. Res. 5 authored by Senator Huffman, the claimed constitutionalist, strips Ohioans of this sacred constitutional right, the right of referendum and removes the only other check and balance from the process, the governor’s right to veto.

The last time we were here for Senator Huffman’s presentation, there was a discussion on fairness. According to the dictionary when used as an adjective “fair” means in accordance with the rules or standards, legitimate, just, equitable, honest, upright and honorable. When used as an adjective it means without cheating or trying to achieve an unjust advantage. I would hope that everyone in this room and on the committee understands without any hesitation this definition as most of us try to govern our lives in this fashion. Gerrymandering is the picture captured in the dictionary as to what is unfair as it is illegitimate, inequitable, dishonest and attempts to achieve an unjust advantage. In short, cheating. “Representational fairness” was also discussed at that presentation. Again, the concept does not seem so difficult to me. To me, “representational fairness’ reflects the common sense approach that the proportion of votes cast for each political party should be reflected in the legislative seats attained by the respective parties and methods should be employed to minimize the differences between the two. A party which receives 52% of the total votes cast should not have 75% of the Districts favor its party. Article XI Section 6 (B)(6) of the Ohio constitution provides that the “statewide proportion of dis­tricts whose voters, based on statewide state and federal partisan general elec­tion results during the last ten years, favor each political party shall corre­spond closely to the statewide prefer­ences of the voters of Ohio.” So our constitution appears to answer the question raised by Senator Huffman at the presentation as to whether non-partisan judicial races should be considered and what “representational fairness “ is. If memory serves me Senator Huffman boasted that he drafted these provisions so the concept should not be new to him. In fact, the citizen’s initiative does not seek to amend this language. Further, both the Ohio constitution in Art. X section 9 (D)(3)(c) and the citizen’s initiative utilize “representational fairness” in part, to determine the legitimacy of a proposed map. *Also see*: Citizen’s initiative Section 3 (a)(C)(5)

Also somewhat misleading was Senator Huffman’s comments that under the citizen’s initiative, in the case of a stalemate, a court would be left with the task of drafting a redistricting plan. Such is not the case. Specifically, the citizen’s initiative reaffirms Section 9(D)(2), already in the Ohio constitution which provides “No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.” I am sure the senator just missed this is in his reading of the proposed Amendment.

I have so many concerns about this resolution that there is hardly enough time to address them all. I will start with the elephant in the room. The timing. Although the legislature has had two (2) years to conduct pubic hearings and draft a piece of legislation to address gerrymandering, nothing was done until the citizens of the state took it upon themselves to act. Only after we had attained about one half (1/2) the required signatures did the legislature act and then on a fast track with one purpose, to derail the citizen’s initiative. There can be no other credible explanation for the rush tactics to get it on the May ballot rather than wait until November and let the citizens compare and choose in one election. This bad faith is the introduction to this resolution.

This resolution fails to address the rotten core of gerrymandering in that it is NOT bi partisan and leaves all the power to the majority party to cheat its way to a win. Yes, it has a long process where the maps go from the statehouse to a commission, back to the statehouse and ultimately the majority wins and with every step of the process it needs to obtain less votes to do so and can proceed without any agreement by the minority party. Ultimately the majority gets the map for four (4) to ten (10) years.

The packing and cracking continues in an attempt to rig the system and dilute the votes. In the citizen’s initiative no county shall be split more than once. If necessary to do so, an explanation shall be included. In Sen. Res. 5 the slicing and dicing continues in the ten (10) most populous counties which accounts for approximately fifty percent (50%) of the population. Two such counties can be divided three (3) times and the remaining eight twice thus creating 4 and 3 Districts in each, respectively. As is stands today, much of the minority party voters live in these counties.

Another red flag is the lack of real citizen input and transparency. Under the citizen’s initiative the maps are disclosed to the public early and the public is specifically invited to submit their own maps. In Sen. Res. 5 there is NO, let me repeat, no requirement that the maps be disclosed nor when they shall be disclosed. The resolution merely states that after submission but before adoption there shall be two (2), not three (3) as required by the citizen’s initiative, public hearings. As we have seen in these hearing there has been very short notice for public input . There have been NO evening hearings after the Resolution was submitted to consider those who may be working. Under Sen. Res. 5 it can be assumed that the public will have little time to review the maps for meaningful input as this is how the process has worked thus far.

Also absent are guidelines to prevent gerrymandering. In the citizen’s initiative it is clearly sated that no map shall be drawn to favor one political party over another. The representational fairness outlined in our constitution relating to the state legislature is also included in the citizen’s initiative but is purposely omitted from Sen. Res. 5 which alone reveals that the intent of this resolution is to embed the gerrymandering process into our state constitution.

No matter how much lipstick you put on this gerrymandered pig, it is sadly, still a gerrymandered pig.

I ask that you vote no on this resolution.

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