



Ohio Environmental Council [Action Fund]

Opponent Testimony of Chris Tavenor, Ohio Environmental Council Action Fund Regarding House Joint Resolution 6 Presented to the Ohio House Government Oversight Committee December 7, 2022

Chair Wilkin, Vice Chair Swearingen, Ranking Member Brown and Members of the Ohio House Government Oversight Committee, thank you for the opportunity to testify before this committee today on House Joint Resolution 6. My name is Chris Tavenor, Managing Director of Democracy Policy for the Ohio Environmental Council (OEC) Action Fund. We are opposed to House Joint Resolution 6—this proposal is a blatant attempt to silence the power of Ohioans through the ballot initiative process. While it may be named the “Ohio Constitution Protection” Amendment, the only thing it “protects” is the statehouse’s power at the expense of the people of Ohio.

And when Ohioans see it on the ballot, they will recognize it for what it really is.

Simply put, House Joint Resolution 6 proposes a solution to a problem that doesn’t really exist—in the past two decades, less than twenty citizen-initiated ballot initiatives have been proposed before Ohioans, and based on our count, only five have been approved. Ohioans already rarely approve these sorts of proposals—they are reluctant to change the Ohio Constitution. There’s no need to change what isn’t broken.

Yet for the sake of discussion, the OEC Action Fund’s testimony shall center squarely on a few important sections from the Ohio Constitution that deserve emphasis:

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

All political power is inherent in the people. Government is instituted for their equal protection and benefit, and **they have the right to alter, reform, or abolish the same, whenever they may deem it necessary.** *Article I, Section 2 of the Ohio Constitution.*

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. *Article II, Section 1, Ohio Constitution.*

I could continue reading various sections of the Ohio Constitution that emphasize the inherent power of the people, especially the legislative power, but that would be superfluous. I have shared these sections of the Ohio Constitution to directly counter the stated reason for proposing HJR 6—a self-described attempt to stop “special interests” from changing Ohio’s laws. The OEC Action Fund agrees special interests must be curtailed—when special corporate interests attempt to influence Ohio legislation and policy through nefarious means, such efforts should be opposed and prosecuted to the fullest extent of the law.

And importantly, Ohioans already implemented a constitutional amendment to ensure “special interests” cannot buy a constitutional amendment designed to primarily benefit that interest—the Ohio Initiated Monopolies amendment, passed back in 2015.

Ohioans themselves are NOT special interests. Organizations connect and collaborate together on ballot initiatives—their membership may provide donations, or other organizations may provide donations to fund a ballot initiative. There are a variety of tactics that can be used when Ohioans come together collectively to develop a constitutional amendment. Are those organizations “special interests”? They’re run by Ohioans, their members are Ohioans, and many of their donors are Ohioans.

Ohioans chose, back in 1912, to have fifty percent of voters approve constitutional amendments. They also required a ballot initiative to gather signatures equal to ten percent of the electorate in the last gubernatorial election. The signature gathering requirements for constitutional amendments themselves are the onerous requirement—it costs millions of dollars to fund signature gathering efforts. Yet regardless who funds a particular signature gathering campaign, every signature must be from an Ohioan registered to vote in this state.

The point being, once an issue is on the ballot, the legislative authority in that moment now rests with the people, as established by the Ohio Constitution. If Ohioans want to enshrine particular policies, programs, or other issues directly into the Ohio Constitution, that is their inherent right as stated in the Preamble and Article I, Section 2. When voters consider the question, it’s the question on the ballot that matters—whether a “special” interest group funded it, a group of citizens gathered signatures through sheer willpower, or a combination of both—those questions are immaterial.

Hopefully we all agree: when Ohio voters sign a petition for a proposed constitutional amendment, they can decide whether they want to see it on the ballot. Similarly, we should be able to agree: once an issue is on the ballot, Ohioans, as an educated electorate, can make decisions regarding the value of the policy proposed before them. The threshold for those decisions should remain at majority approval, rather than 60%, because that’s the type of democracy Ohioans envisioned in 1912 through the ballot process—that majority approval holds for constitutional amendments proposed by the Ohio General Assembly to the electorate as well, and neither number should change.

The proponents of HJR 6 want to describe it as a culmination of the Constitution Modernization Commission’s efforts during the last decade to reform the ballot initiative process. However, they are only completing half of the reform envisioned by that Commission. The Commission was attempting to solve a more complicated problem—why do Ohioans only pursue constitutional amendments, rather than the citizen-initiated statutory process? The answer is fairly simple—Ohioans want to know their law will be the law, rather than amended or even repealed by the Ohio General Assembly. If HJR 6

were exploring meaningful revisions to the citizen-initiated statutory process—including provisions that would insulate those laws from the General Assembly for a few years—this discussion might be different. Making only a change to the threshold for passing constitutional amendments only erodes the constitutional right to direct democracy enshrined currently in our Ohio Constitution.

The OEC Action Fund would like to seriously probe the intentions behind this proposed constitutional amendment. Is it to “stop” special interests from “funding” amendments in Ohio? We would say no. It appears this effort is more precisely designed to make it more difficult to pass future constitutional amendments that would counter unfounded power in the Ohio General Assembly. Last year, we saw the Ohio Redistricting Commission ignore orders of the Ohio Supreme Court seven times. We’ve seen other legislation proposed to make it harder for people to vote. All of this after the bribery scandal of House Bill 6, yet no campaign finance reform has been developed to ensure such acts cannot happen again.

And to hit this point home, let us reflect on some important data regarding the May election in an odd-numbered year right after a general election. This is the lowest turnout election in the cycle, where many local governments don’t even have primaries for their elections that will come in November. In May 2019, the last equivalent election, Franklin County had a voter turnout of 7.28%. The Ohio Secretary of State’s website, from what I can tell, doesn’t even publish statewide voter turnout data because some places didn’t even have an election.

If we are generous, and say 20% of registered Ohioans showed up to vote in this election, then only ~10% of Ohio’s registered voters would ultimately decide the outcome of this proposed amendment. That’s not democracy. That’s choosing the lowest turnout election to place this on the ballot to ensure as few people consider it as possible.

In conclusion, the OEC Action Fund will always stand on the side of Ohioans. If HJR 6 is referred to the ballot, Ohioans will defeat it. They will not give away their own democratic authority. So rather than waste money, time, and resources on a protracted campaign on both sides, we should end the discussion now, shelving this supposed “solution” for a problem that does not even exist.

Respectfully submitted,

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