

Government Oversight Committee

Testimony of Richard D. Topper

Opponent on HB 144/SB 92

April 27, 2023

Good morning, Chair Peterson, Vice Chair Thomas, Ranking Member Forhan, and members of the Government Oversight Committee. My name is Richard Topper and I am presenting written testimony in opposition to HB 144 and the companion bill Senate Bill 92.

I've practiced law for over 40 years and have appeared in multiple trials. I've seen people try to justify their case in many ways, but I've never seen an opening statement quite like the sponsor's testimony. Two paragraphs. Five sentences. And no support. If the Judge wouldn't throw out the case for SB 92, the jury would.

Less than four months after outlawing August elections except for local issues due to low voter turnout, the Republicans on this committee and the Senate Government Oversight Committee introduce new legislation allowing an August election for a statewide ballot issue to amend the Ohio Constitution. But not for citizen initiatives. Only for initiatives that arise from our gerrymandered state legislature.

Let's review the cogent, well-supported and well-reasoned House Bill 458 arguments in support of eradicating August elections. In his sponsor testimony, Republican Representative Thomas Hall, testified: "August special elections are costly to taxpayers and fail to engage a meaningful amount of the electorate in the process. They should be eliminated from the elections calendar." Well put, Rep. Hall

Terry Burton, the legislative director of the Ohio Association of Election Officials testified: "August special elections require boards of elections to undergo the FULL planning process for an election; no different than a primary or general election. The chair (Republican Rep. Merrin) rightly pointed out that this requires recruitment of poll workers, procurement of voting locations, hiring of additional staff to support early voting hours, testing of voting equipment, and all the other myriad of tasks that go into the planning and execution of an election. All this effort routinely results in a voter turnout well below 20%, sometimes even less than 10%. Thus, the "cost-per-vote" is greatly increased. What this means is that taxpayers end up funding inefficient election."

Secretary of State Frank LaRose testified: "Voters just don't turn out. That means just a handful of voters end up making big decisions. The side that wins is often the one that has a vested interest in the passage of the issue up for consideration. This isn't how democracy is supposed to work." He went on to say:

“More importantly, it doesn’t have to. Voters are just as capable of voting on these important issues during the standard primary and general elections and there is no reason why these contests can’t happen at the regularly scheduled primary and general elections which occur twice a year.”

Proponents of discontinuing statewide August elections testified regarding the added burden and cost of August elections on Ohio counties and county boards of elections. Regarding this issue, Mr. LaRose emphatically stated “These unnecessary “off-cycle” elections aren’t good for taxpayers.”

Mr. LaRose also gave examples of the low turnout in August elections. In August of 2020, a special election occurred in Hamilton County where voter turnout was only 11.8%. On that same day, Cuyahoga County had their own special election. Their voter turnout? Just 6.8%. LaRose called these “bad news for the civic health of our state.”

In the November, 2020 presidential election, 74% of Ohioans turned out to vote. Even in statewide election years, well over 50% of Ohioans turned out to vote for statewide candidates. Compare these turnouts with the August turnouts of 6.8-11.8%. To call an August election on something as important as a statewide vote on a Constitutional amendment an exercise in democracy is utterly ridiculous.

You have already admitted your short-sighted goal of making it more difficult to pass a potential ballot issue giving women freedom over their own bodies and reproductive systems. In so doing you are pulling a sneak attack on Ohio voters. But you should recognize that your short-sighted goals have long term consequences.

So, I ask the members of this committee. Do you want to be known as the legislators that preserved the rights of Ohioans to petition their government? Or do you want to be known as the legislative body that stripped these rights for personal gain?

Thank you for your time and I'd be happy to answer any questions.