



OEC [Action Fund]

House Joint Resolution 19
Opponent Testimony
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Ohio House Committee on Government Accountability and Oversight
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Chairman Blessing, Vice Chair Reineke, Ranking Member Clyde and Members of the Committee, thank you for this opportunity to provide testimony on House Joint Resolution 19 (HJR 19). For over a century, Ohioans have enjoyed direct access to the peoples' governing document - using the Ohio Constitution's direct petition process to access the ballot and seek change. In those years, citizens have expanded voting and increased the minimum wage, but more importantly, they have become more invested in the legislative process and became their own advocates for a better Ohio. Even when the citizen initiative process doesn't succeed, it has moved the legislature to act on important issues, from payday lending reform to medical marijuana to curbing political gerrymandering.

We agree with the sponsors of the Resolution that Ohio's founding document should not be "for sale" to special interest groups—sometimes from outside of Ohio—who wish to promote their own interests through the constitutional amendment process. However, this Resolution falls short on protecting Ohioans or our Constitution. In fact, the obstacles HJR19 puts between the people and their Constitution will mean that only big monied interests will have the resources to mount a "Citizen" Constitutional Initiative.

The Current Citizen Initiative Process is Not Easy

First, it is important to explain the inherent difficulties that citizens face under current initiative process, and refuting the claim that it is too easy to change the Constitution. The current process to get a citizen-led Constitutional Amendment on the ballot (let alone enacted) is far from easy. First citizen ballot committees need to obtain valid voter signatures equal to 10% of the total gubernatorial vote.¹ After this year's robust turnout, that number is more than 431,840 valid voters. What is more, those signatures must come from at least 44 of the 88 Ohio Counties. The difficulty of this effort can be shown by the number of Citizen Initiatives that begin, but never make it to the ballot. Eighty-eight petitions for amendments have been filed

¹ Ohio Const. Art. II section 1g.

with the Attorney General since 2006 - with only ten making the ballot.² In 2018, alone, five ballot initiatives failed to collect the necessary signatures to make it onto the November ballot.³

Even if a petition makes its way onto the ballot, no amendment is made to the Ohio Constitution unless approved by more than 50 percent of the voters voting on the proposed amendment.⁴ This task, too, is far from easy, as the electors of the state of Ohio have been quite finicky about the citizen-led amendments they approve. Between 1913 and 2018 Ohio voters have voted on 72 citizen initiated amendments to the constitution, approving 19 (or about 26%). During the same 105 years, the legislature has amended the constitution through ballot measures 107 times in 155 attempts (69%). With the process as difficult as it is, we feel that this legislature should not be making it harder for everyday citizens to access the ballot.

HJR19 Erects Unreasonable Barriers to the People's Document

HJR19 makes it more difficult and more costly - thus increasing the stranglehold that outside interests have on the process. Specifically, there are two fatal flaws to this proposal:

1. Unreasonable Circulation Period

Currently, Ohioans enjoy an unlimited amount of time to gather the requisite number of signatures as long as they file the total requisite names by 90 days before the election. Under the new proposal, collected signatures are only valid for 180 days. What is more, HJR19 requires all signatures to be collected by April 1 of the year the ballot initiative is to be placed on the ballot.⁵ With the large number of signatures needed, such timetables create an almost insurmountable obstacle to the ballot - especially for volunteer operations like our efforts to develop a new redistricting process because community gatherings where signatures can be gathered are more sparse and the volunteer pool is smaller in the winter months. In fact, it would actually encourage the out of state spending the sponsors of this bill seek to halt because successful campaigns would almost certainly require paid operations.

While we acknowledge that Ohio is just one of a few states without an expiration date on petition signatures, we feel that it is for good reason. Each signature must be verified by the Secretary of State as a current registered voter. Therefore, each signature has an expiration (its invalidity) when the voter dies, moves, or otherwise is no longer a registered voter. Also, if a voter changes her mind on supporting a measure, she may simply vote NO when it appears on the ballot.

² <https://www.ohioattorneygeneral.gov/Legal/Ballot-Initiatives/Petitions-Submitted-to-the-Attorney-General-s-Offi>

³ https://ballotpedia.org/Ohio_2018_ballot_measures

⁴ This is made even more difficult as a citizen initiative can only appear on the ballot of a General Election, requiring the measure to obtain more votes, as opposed to a Primary or Special Election where turnout is much smaller. Ohio Const. Art. II section 1g.

⁵ Coupled with the April 1 deadline, this means organizations collecting signatures have only the winter months (from October 1) to collect over 400,000 signatures to meet the April deadline. Albeit, a ballot committee can submit earlier than April 1.

2. Unprecedented Super-Majority

Whether electing a Governor, state legislator, mayor, or park levy, all elections in Ohio are won by a simple majority (at least 50% plus 1 vote). However, HJR19 proposes to increase the required approval to 60% of electors only for citizen initiated Constitutional Amendments. This places an additional burden on citizen initiated ballot measures that does not exist for any other type of race, levy or ballot issue in Ohio law. Only one state has such a supermajority requirement for approval of citizen initiated Constitutional Amendments.

Initiated Statute Process

The Resolution also looks to alleviate certain procedural obstacles that historically have made the initiated statute process more difficult, and thus less attractive as an option for citizens than the Constitutional initiative. The current process requires an initial 3% signature threshold to take the statute to the General Assembly, and an additional supplemental 3% signature requirement to take it to the ballot if the General Assembly refuses to act on the initiated statute. The proposed Resolution removes the second, supplemental, round of signatures, which is step in the right direction. However, it increases the percentage of signatures needed from 3% to 5%. At 3%, initiated statutes would need 131,471 signatures. If it is raised to 5%, that's 219,119 signatures total. While this appears on its face to be a total reduction in the amount of signatures needed (5% versus two rounds of 3%), it nearly doubles the number of signatures needed from the outset - thus doubling the burden on citizen petition gatherers.

Making the citizen initiative process more difficult and costly will only put more power in the hands of monied interests, which is the exact opposite of what we all want. The initiative process will become so costly that only well-funded organizations with national support will be able to access the ballot.

Further, this legislation fails to adequately address one of the most basic problems with the initiated statute process, which is that the legislature can almost immediately overturn the will of the voters. In the past, citizen groups have chosen to pursue a Constitutional solution because it makes it harder for the legislature to change something acted upon by the public. The Resolution's one year period does not adequately address this concern. A very high bar for the legislature to overturn the voice of the people should be set, and any bill reforming the system should include a more reasonable time period before the legislature can make changes.

Again, thank you for allowing me to provide testimony on HJR19. I would be happy to answer questions at this time.