



State Representative Brian Stewart

Sponsor Testimony House Joint Resolution 1

March 22nd, 2023

Chairman Wiggam, Vice-Chair Hillyer, Ranking Member Mohamed, thank-you for the opportunity to provide sponsor testimony in favor of House Joint Resolution 1, which would place on the ballot for Ohioans' consideration a proposed amendment to Article II of the Ohio Constitution to require a vote of at least 60% of the electors to approve a constitutional amendment.

For far too long, Ohio's Constitution has been far too susceptible to efforts by outside groups and special interests seeking to alter the our Constitution to achieve their own ends. We have repeatedly watched as special interests buy their way onto the statewide ballot, and then spend millions of dollars drowning the airwaves seeking to secure permanent, fundamental changes to our state by a vote margin of 50% plus one vote.

America's Founders ensured that the United States Constitution would be protected against such outside influence and monied interests by requiring a supermajority vote for amendments – a 2/3 vote of both chambers of Congress and a vote of 3/4 of state legislatures. It is time to protect the Ohio Constitution in a similar way. If you were to wake up tomorrow and read that Facebook, or Exxon, or Norfolk Southern, were spending billions of dollars to collect signatures and place a railroad-industry-friendly "Norfolk Southern Amendment" to the U.S. Constitution on the ballot

for a nationwide popular vote, most people would find that to be absurd. Yet, that is essentially what happens in Ohio year after year after year.

For example, in recent elections, outside interest groups placed a proposed amendment on the ballot to effectively legalize drugs and reduce prison sentences for violent criminals. Another effort would have legalized marijuana and limited commercial growing rights to 10 pre-selected landowners. If you attempt to actually read the Ohio Constitution — which has become bloated to over 67,000 words as a result of constant amendments — you will see another outside interest group succeeded in writing individual parcel numbers for its own casinos into the document. The vulnerability of Ohio’s Constitution to outside meddling was also highlighted in the recent corruption trial of former Ohio House Speaker Larry Householder, when it was revealed that major corporate interests like First Energy and AEP had been lined up to make campaign contributions to a dark money group which would fund an initiative-petition amendment to the Constitution to double the length of time Householder could serve as Speaker. This brazen attempt to buy a “Speaker for Life” change to Ohio’s Constitution was thwarted only by indictment. Moreover, when one considers that in the last three petition-based amendment campaigns, outside groups spent more than \$50 million trying to advance various initiatives, it becomes clear that attempting to amend Ohio’s Constitution is a lucrative business.

HJR1 is the type of reform that has been discussed by the former Ohio Constitutional Modernization Commission, by current and former legislative leaders, in the pages of Ohio’s newspapers, and at many public forums in between. In fact, the final report by the Ohio Constitutional Modernization Committee’s Constitutional Revision and Updating Committee, specifically endorsed raising the threshold for adoption of constitutional amendments. That bipartisan committee, which included Democratic Senator Vernon Sykes, and Democratic

Representative Glenn Holmes, specifically recommended to the full Commission that the threshold for adopting amendments to Ohio’s Constitution be raised to “at least 55%” as a component of its final report. The Ohio Constitution Protection Amendment is not a new idea – but it is an idea whose time has come.

It is important to note that HJR1 preserves the initiative petition form of amendment, and does not take away the ability of Ohioans to offer amendments to Ohio’s Constitution. That being said, it is also important to realize that Ohio is among the minority of states that even permit constitutional amendments by initiative petition *at all*. 32 states do not permit *any* constitutional amendments to be proposed by outside groups. Moreover, of the 18 states which do allow constitutional amendments by initiative petition, 9 of those states – red and blue – have added some form of enhanced requirement for them to be adopted¹. Florida, as one example, requires a 60% vote for adoption, just as we are proposing here. Colorado requires a 55% vote to approve constitutional amendments, while “Live Free or Die” New Hampshire requires a 66% vote to amend its constitution. Illinois requires either a 60% vote margin on the amendment itself, or 50% plus one of all the total ballots cast in the applicable election. Arizona requires a 60% vote threshold for amendments that involve tax increases.

Opponents of the Ohio Constitution Protection Amendment have claimed that raising the vote threshold to 60 percent will somehow make amendments to the Constitution virtually impossible. This is nonsense. In fact, since 2008, 14 of the 21 proposed constitutional amendments have passed with a 60 percent or better vote margin. In 2022, both proposed constitutional amendments passed with a 77 percent vote margin. This is as it should be. If any outside group believes its idea is worthy of inclusion in Ohio’s Constitution, then it should be able to earn the

¹ Massachusetts, Illinois, Oregon, Washington, Nevada, Nebraska, Mississippi, Wyoming, Florida.

widespread public support that a 60% vote margin will require. Stated simply, under the Ohio Constitution Protection Amendment, good ideas will pass.

As noted previously, HJR1 preserves the ability of any group to propose amendments to the Constitution, but it will also ensure that all communities are represented for purposes of determining what ideas will make it to the ballot. Currently, initiative petitions must be signed by the requisite number of electors from 44 counties; under HJR1, the requisite number of signatures would be required from all 88 counties. If a proposed constitutional amendment is going to apply to all Ohioans, then it should require broader support among Ohio communities at its inception as well. HJR1 would also eliminate the current “cure period” in which initiative petitions that fail to submit the required number of valid signatures by the applicable deadline get a second “bite at the apple” and an extra period of time to go correct their failure. The “cure period” is an unusual, unnecessary step in the ballot access process which simply drags out the timeline. Groups seeking to amend the Constitution should be required to meet the standards, and should not be afforded “bonus time” after they fail to do so.

Finally, HJR1, if adopted, will apply to *all* proposed constitutional amendments. It will apply to proposed amendments that Democrats like, and it will also apply to proposed amendments that Democrats do not like. It will apply to proposed amendments that Republicans do not like, and it will also apply to proposed amendments that Republicans do like. The standard that should apply to permanent amendments to Ohio’s Constitution is a question that should be considered on its own merits, looking ahead decades, not just a few months. Curtailing the ability of special interests to buy amendments to benefit themselves first, and the public a distant second, is something both parties should support.

Chairman Wiggam, Vice-Chair Hillyer, Ranking Member Mohamed, thank you again for the opportunity to present House Joint Resolution 1. Thank you for recognizing the importance of this legislation, and I would be happy to answer any questions the committee may have.