

Committee Members

April 2023

Honorable Chairman, Committee Members and other Members of the Ohio Senate and General Assembly, my name is Kevin Cronin and I am an attorney in Cleveland. Prior to returning home to Ohio, I worked for a decade in Washington, DC, assisting Members of Congress and as a committee counsel. I have worked on policy and elections for decades, at the federal, state and local levels. I believe the HJR 1 supermajority requirement is wrong-headed policy and I want to share my basis for those conclusions.

I urge opposition to HJR 1, legislation that would increase the voter requirement for public ballot initiative or referendum approval from 50% majority to 60% super-majority. The Ohio Constitution establishes the right of Ohio residents to file a ballot initiative (proposing a new law or constitutional amendment) or referendum (remove existing law) for state-wide public vote, with passage by a majority of voters.

This Initiative/referendum power represents the historic view, approved by the 1912 state constitutional convention. The debate to create the power was fierce, with a contemporary account calling it “the most bitter and momentous struggle known in the state for a generation. Every ruse and trick known to Big Business politicians was employed to frighten the people of Ohio from adopting the proposal.” The provision passed with 58% of the vote, in a broad campaign led by Cincinnati Reverend Herbert Bigelow, Toledo Mayor Brand Whitlock and Cleveland Mayor Newton Baker.

During that 1912 debate, Ohioans also drew on the support of Republican President Theodore Roosevelt, who addressed the Ohio Constitutional Convention:

I believe in the initiative and the referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative. Here again I am concerned not with theories but with actual facts. If in any state the people are themselves satisfied with their present representative system, then it is of course their right to keep that system unchanged; and it is nobody’s business but theirs. But in actual practice it has been found in very many states that legislative bodies have not been responsive to the popular will. Therefore I believe that the state should provide for the possibility of direct popular action in order to make good such legislative failure.

Direct democracy is the tradition in Ohio, the historic allocation of political power. The act of gathering signatures for an issue and placing that issue on the ballot is fundamental to how Ohio democracy works. It is not a power taken lightly or executed easily.

Since inception, the referendum and initiative have been considered the last stand, a safety valve, for Ohio residents. From the Constitution’s founding, legislative over-reaching, not the executive branch abuse, was considered the greater public risk, requiring Constitutional

opportunities for the assertion of public political power. Increasing the required vote margin to 60% chokes off that historic public option, constraining opportunities to assert public power. Legislators should not fear voters; they should not abuse their legislative power to create new public obstacles for Ohioans.

The legislature, under the Ohio Constitution, already has access to the statewide initiative process. By adding a 60% supermajority requirement to the public option, the legislature creates an added impediment for the public safety valve. The Secretary of State recently stated that he would add a 60% margin required for the legislature to move an initiative or referendum to vote, but that's a hollow requirement as the 60% threshold is already met by a legislative vote to approve the referendum or initiative for the ballot.

The fear of the majority supporting HJR1 is unfounded, as initiatives by the public already are infrequent. Enacting a referendum or initiative is already complex, expensive and daunting. A 60% supermajority adds to the public challenge. There have only been 67 ballot initiatives (1913-2014), only nineteen winning approval (28%). By comparison, Ohio voters also voted on 151 proposed constitutional amendments that were prepared for the ballot by the Ohio State Legislature. Of these, voters approved of 102 (68%) amendments and rejected 49. The legislature already has a power advantage and closing off the public "safety valve" takes that power advantage one major step further.

The current majority requirement for Ohio matches those of other states. Nation-wide, most states require a simple majority for voters to pass an initiative. By contrast, almost all states require a supermajority vote of the legislature to refer a measure to amend the constitution to the voters. I acknowledge that creating a super-majority requirement for the public has been trendy in 2022, with Arkansas and South Dakota both going to the voters, with both measures rejected by citizens in both states.

HJR1 is a naked attempt to take away the political power of Ohio residents. The legislature, under the Ohio Constitution, already has access to the statewide initiative process. By adding a 60% supermajority requirement, the legislature turns Ohio history on its head, closing off the public "safety valve." This power grab goes too far. It harms Ohioans, it harms Ohio.