

Michael W. Ahern
Testimony before the House Constitutional Resolutions Committee
04/19/2023

Good morning Chair Plummer and members of the Committee. Thank you for the opportunity to testify in opposition to House Joint Resolution 1.

Today's HJR1 proposal is one in a long line of legislature abuse of power in Ohio and one in which electors, the true Constitutional seat of power, push back against an otherwise unaccountable legislature power grab.

The Supreme Court of Ohio on May 25, 2022 issued a final decision regarding State House and Senate Districts striking the districts as an illegal gerrymander. The decision reads in part:

“This cause came on for further consideration upon the filing of petitioners’ objection to the Ohio Redistricting Commission’s May 6, 2022 resubmission of the invalidated February 24, 2022 plan. Upon consideration thereof and consistent with the opinion rendered herein, petitioners’ objection is sustained. It is further ordered that the plan adopted by the Ohio Redistricting Commission on May 5, 2022, is invalid in its entirety. It is further ordered that the Ohio Redistricting Commission shall be reconstituted to convene and to draft and adopt an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B). It is further ordered that the Ohio Redistricting Commission shall file the district plan with the secretary of state no later than 9:00 a.m. on June 3, 2022, and in this court by 12:00 p.m. on the same date.”

To date, the Court’s order has been flagrantly violated by members of the Redistricting Commission and the legislature.

Because Congressional districts were also struck as unconstitutional by the Ohio Supreme Court and an appeal is working its way through federal court, the legislature voted to hold an unprecedented second primary for just Ohio House and Senate districts and state party central committee offices in August 2022 at an additional taxpayer funded cost estimated at \$20 to \$25 million. Ironically, because of the Federal Court appeal and decision, Ohio voters were forced to vote in illegal gerrymandered districts based on “Map 3” that had been struck down by the Ohio Supreme Court. Voter turnout was 8% statewide of all registered voters. In the November general election voter turnout was 52% statewide of all registered voters.

So, today, this committee, comprised of a super-majority of Republicans elected under illegally gerrymandered districts is considering HJR1 sponsored by an individual who hails from District 12, a 58% to 49% gerrymandered district based on the district map used to elect the sponsor to office. And what does this legislation seek? Further erosion of registered voter ability to shape the course of public law in Ohio - law that we all pay taxes under in exchange for what should be true representative democracy.

111 years ago, our Ohio forefathers rejected corrupt elected officials by instituting a provision into the Ohio constitution that allows voters, the true seat of power under the Ohio Constitution, to initiate citizen-led petitions to change the Constitution. This change was established consistent with existing approval requirements for Constitutional changes dating back to 1851. In fact, this simple majority approval by electors was established after proposed major reforms in 1851 in response to unchecked power of the legislature that, in 1819 had swept all Ohio Supreme Court and Common Pleas Court elected judges out of office as well as the state Auditor, Secretary of State, state Treasurer and justices of the peace via legislative fiat and no existing Constitutional check on the legislature's power in the 1802 Constitution. As described in the December 1, 1902 issue of the Daily Scioto Gazette, "This resulted in interminable conflict, but it was the exercise of the power of the legislature." The 1851 reform established that "if a majority of the electors voting at such election, shall adopt such amendments, the same shall become a part of the Constitution." The standard was further refined in 1912 - the year citizen-initiated Constitutional ballot measures were established. Again, approval of any Constitutional change included the 50%+1 majority of the electors voting at such election. This further refinement was AGAIN in response to corruption and abuse of power in the legislature. Such a rich history the people of Ohio have had in countering the abuses of an otherwise independent and otherwise unaccountable legislature.

History does not repeat, but it rhymes. Now, this illegal gerrymandered legislature seeks to establish a 60%+1 standard for all future citizen-initiated changes to the Ohio Constitution. The irony that the legislature wants to establish this minority stranglehold over well-established, tried and true, judiciously used simple majority vote of the electorate is blatantly obvious to the people of Ohio. Adding insult to injury, this legislature will further seek to do so through a costly special August election where voter turnout is historically less than 7%. What better way for illegal gerrymandered legislators to harness the small but hyperpartisan minority to establish restrictions on the majority of Ohio voters. Our Constitution states: "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." I reiterate, since 1851, the Constitution grants fundamental Constitutional power to the people. Not the legislature. Certainly not this illegally gerrymandered legislature. And, certainly not based on a sponsor proposal from an individual who attained his ability to introduce such a change from an illegally gerrymandered House district.

Some on this committee might ask why you should vote to reject this proposal after being accosted for holding office in an illegal gerrymandered district. My reply is that the bold and aggressive opponent testimony you are receiving today is not personal. Rather, it is the culmination of repeated historical insults by the legislature to undermine the power of democracy, voters and the people of Ohio through gerrymandering, establishment of onerous requirements to initiate a citizen-led ballot measure and a super majority threshold to approve such proposed changes. This proposal is completely antithetical to the entire history of amending Ohio's Constitution. I urge you to vote no on HJR1.