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Via regular U.S. Mail and E-mail

McTigue & Colombo LLC
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Re: Submitted Petition for Initiated Constitutional Amendment to Add Article XX of the Ohio Constitution– “Ohio Citizens Redistricting Commission” – SECOND SUBMISSION

Dear Attorney McTigue,

On September 5, 2023, in accordance with Ohio Revised Code Section 3519.01(A), I received a written petition containing (1) a copy of a proposed constitutional amendment, and (2) a summary of the same measure. One of my statutory duties as Attorney General is to send all of the part-petitions to the appropriate county boards of elections for signature verification. With all of the county boards of elections reporting back, at least 1,000 signatures have been verified.

It is also my statutory duty to determine whether the submitted summary is a “fair and truthful statement of the proposed law or constitutional amendment.” R.C. 3519.01(A). The Ohio Supreme Court has defined “summary” relative to an initiated petition as “a short, concise summing up,” which properly advises potential signers of a proposed measure’s character and purport. *State ex rel. Hubbell v. Bettman*, 124 Ohio St. 24 (1931). If I conclude that the summary is fair and truthful, I am to certify it as such within ten days of receipt of the petition. In this instance, the tenth day falls on September 14, 2023.

Having reviewed the submission, I am unable to certify the summary as a fair and truthful representation of the proposed amendment. During our review of the summary, we identified a critical omission that would mislead a potential signer as to the actual scope and effect of the proposed amendment.

The summary fails to fairly and truthfully describe the Amendment’s bifurcated definition of political “affiliation” as applied to Commission members versus Panel members. The proposed constitutional amendment, if approved by Ohio voters, will implement an entirely new process for adopting redistricting plans in Ohio. The proponents of the Amendment promise that it will yield “an open and transparent process” and “fair outcomes.” See Proposed Amendment Article XX, Section 1(A). The key element to this new system is bipartisanship – both on the screening Panel and on the Commission. In fact, the foundation of the entire system is rooted in the tempering of

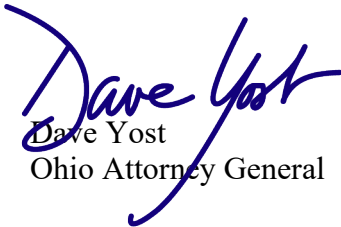
political power and influence with a precise balance of political or non-political affiliated members. Thus, how political affiliation is determined, who makes those determinations and what rules apply are critical issues that must be included in a summary of the proposed amendment if it is to be fair and truthful.

The summary's failure in this most important aspect is one of omission, not commission, because it ignores the fact that the affiliation rules for Commission members do not apply to Panel members. Worse, the Amendment uses the word "affiliation" in both contexts even though neither context has the same meaning. Worse still, the summary does not explain the double meaning. For example, it is clear that the Amendment provides objective standards for determining political party affiliation for Commission members. *See* Proposed Amendment, Article XX, Section 2(D) 2(a)-(c). This is in marked contrast to the appointment of Panel members where the Ballot Board has discretion to determine political affiliation unconstrained by objective standards. *Compare* Section 2(D)(2)(a) *with* Section 2(B)(3)(a)-(c).

To be clear, a fair and truthful summary should articulate this distinction so that a signer can understand the Amendment's true meaning and effect. Otherwise, the summary misleads a signer into misbelieving that party affiliation is judged consistently and with the same objective criteria when it is not.

A summary that fails to inform a signer such an important detail does not fairly and truthfully reflect the amendment's import. Thus, without reaching the balance of the summary, and consistent with my past determinations, I am unable to certify the summary as a fair and truthful statement of the proposed amendment.

Yours,



Dave Yost
Ohio Attorney General

cc: Committee Representing the Petitioners