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VIA FIRST CLASS MAIL

C. David Paragas, Esq.
Benesch Attorneys at Law
41 South High Street, Suite 2600
Columbus, OH 43215

Re: Proposed Initiated Referendum to Repeal Substitute House Bill 545

Dear Mr. Paragas:

In accordance with the provisions of Section 3519.01(B)(3) of the Ohio Revised Code, a written petition proposing to repeal Substitute House Bill 545, was submitted for my examination on June 25, 2008. Pursuant to Ohio Revised Code Section 3519.01(B)(3), my duty is to opine whether the submitted summary of Substitute House Bill 545 is a fair and truthful statement of the measure to be referred. Accordingly, this office does not comment on the merits of the proposed referendum.

The Supreme Court of Ohio has defined “summary” relative to initiated petitions as “ ‘a short, concise summing up,’ which will properly advise those who are asked to either sign the petition or to support the amendment at the polls of the character and of purport of the amendments without the necessity of perusing them at length.” *State ex rel. Hubbell v. Bettman* (1931), 124 Ohio St. 24. In that case, the Court upheld the rejection of a summary of a proposed constitutional amendment on the basis of its length. “There would manifestly be no point to having a summary in addition to the text itself unless the summary is just what the definition of that term expresses, *viz.*, ‘a short concise summing up,’ which will properly advise those who are asked to either sign the petition or to support the amendment at the polls of the character and of purport of the amendments without the necessity of perusing them at length.” *Id.* The *Hubbell* Court noted that the proposed summary was 4900 words while the proposal itself was only 4800 words. Assuming an average of 250 words per page, the summary submitted in *Hubbell* would have been over 19 pages.

The purpose of the summary is to fairly and concisely distill the possibly complex legal matters into something that is readily understandable to a reasonable person of average intelligence. In this case, in order to be “properly advised,” an elector reading your summary would have to peruse 17 pages of small type. The new language in the bill is only 21 pages in length. The “summary” itself is almost as long as the changes proposed by the bill. It is too long to properly advise an elector.

The summary provided is also unnecessarily long. Substitute House Bill 545 can be summarized in a fair and truthful way. In my previous correspondence to the committee dated June 19, 2008, I informed you in great detail of the deficiencies in the previous submission and what was needed to appear in a summary in order to make it fair and truthful.

This "summary" is far too lengthy, given the changes in law that are to be summarized, to be considered short and concise. For this reason, I am unable to certify the proposed summary as a fair and truthful statement of the measure to be referred.

Sincerely,



NANCY H. ROGERS
Attorney General

NHR:rnc

cc: Chief Elections Counsel, Secretary of State