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November 7, 2012

VIA U.S. MAIL & ELECTRONIC MAIL

Mr. James Flaughner
2912 Township Road 20
Cardington, Ohio 43315
jim.flaughner@coalitionoffreedom.com

RE: Proposed Initiated Constitutional Amendment Submitted by Ohioans for Ohio

Dear Mr. Flaughner:

In accordance with the provisions of Section 3519.01(A) of the Ohio Revised Code, a written petition bearing a copy of a proposed initiated constitutional amendment to add an "Ohioans for Ohio" amendment to the state Constitution was submitted to this office for examination, together with a summary of that proposed amendment, on October 30, 2012.

It is my statutory duty to determine whether the submitted summary of the proposed amendment "is a fair and truthful statement of the proposed law or constitutional amendment." By statute, I am required to perform this duty within ten days of receiving the petition. In this instance, the tenth day falls on November 9, 2012.

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). After reviewing the submission, I conclude that I am unable to certify your summary as a fair and truthful representation of the proposed amendment.

The proposed amendment contains three parts. Part A addresses Ohio's "declaration of state sovereignty." Part B addresses the establishment of a Constitutional Review Committee, vested with "the power to compel the Supreme Court of Ohio" to issue decisions "regarding the constitutionality of any Ohio law, rule, regulation, or mandate or any federal law, rule, regulation, or mandate." Part C addresses the initiation of "impeachment proceedings" against "public officeholders" who "violate their oath or oaths."

The summary, on the other hand, contains the following four sentences regarding the amendment:

- (A) Laws not in adherence to the Ohio Constitution and the Constitution of the United States of America are considered unconstitutional and unenforceable in Ohio.
- (B) Ohio has dominion over its government, commerce, education, environment, and energy resources.
- (C) Enforcement of the Ohio Constitution shall be the duty of the Governor, Attorney General, and the citizens of Ohio, each within their own jurisdiction and as prescribed by law.
- (D) Oath or oaths administered in accordance with Section 7 of Article XV of the Ohio Constitution are legally binding.

The summary goes on to list seven things the proposed amendment would not do.

While the summary claims that the proposed amendment would accomplish the four items listed above, the proposed amendment is much broader in scope than the summary indicates. Specifically, Section

A of the amendment states: "The State of Ohio hereby claims its sovereignty, pursuant to the Tenth Amendment to the Constitution of the United States of America and shall exercise self-determination and self-rule over its government, commerce, education, environment, and energy resources . . ." However, the summary contains no mention of Ohio claiming its sovereignty. In light of this omission, I cannot find the summary fair and truthful.

Additionally, the summary fails to include key pieces of information contained in Section B of the amendment, which confers added duties and responsibilities upon public officeholders and citizens. Specifically, Section B would give the Governor and the Attorney General the power to compel the Ohio Supreme Court to render a decision on a constitutional challenge within 30 days. This power would apply to challenges to any Ohio or federal law, rule, regulation, or mandate. It also gives the Governor and the Attorney General the authority to form a "Constitutional Review Committee" and to vest this committee with the power to force the Court to issue decisions within that 30-day timeframe. Finally, Section B grants standing to any Ohio citizen to challenge the constitutionality of any Ohio or federal laws, rules, regulations, or mandates in any Ohio court. All of these new duties are omitted from the summary, and because they effect an important change to state government, they need to be included in order to properly advise potential signers of the character of the proposed amendment.

Similarly, the summary fails to address additional items contained in Section C of the proposed amendment. Section C provides that it is unlawful for elected officeholders to violate their oaths. In furtherance of this goal, Section C gives the Governor and Attorney General, collectively or individually, the power to compel the General Assembly to begin impeachment proceedings against any offender. This new authority for the Governor and the Attorney General to invoke impeachment proceedings is not mentioned in the summary. This point would need to be included in the summary in order to provide a fair and truthful account of the proposed amendment.

Finally, the summary lists seven items that it claims the proposed amendment does not do. These seven items are not specifically addressed in the proposed amendment. In order for the summary to be fair and truthful, either these seven items should be specifically contained in the amendment or they should be removed from the summary.

For these reasons, I am unable to certify the summary as a fair and truthful statement of the proposed amendment. However, I must caution that this letter is not intended to represent an exhaustive list of all defects in the submitted summary.

Very respectfully yours,



Mike DeWine
Ohio Attorney General

cc: Hon. Jon Husted, Secretary of State (*by email*)

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