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December 2, 2022

*Via regular U.S. Mail and E-mail*

David G. Cox  
4240 Kendale Road  
Columbus, Ohio 43220

Re: Submitted Petition to amend Section 2744.03 of the Ohio Revised Code—"The Ohio Civil Liberties Restoration Act"

Dear Mr. Cox,

On November 22, 2022, in accordance with Ohio Revised Code ("ORC") Section 3519.01(A), I received a written petition containing (1) a copy of a proposed amended ORC 2744.03, and (2) a summary of the same measure. The submitted summary states, in relevant part: "Existing RC 2744.03 would be amended by deleting paragraphs (A)(6)(a), (A)(6)(b) and (A)(6)(c), thereby ending qualified immunity in Ohio for employees of political subdivisions."

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." ORC Section 3519.01(A). 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 December 2, 2022.

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). Having reviewed the submission, I am unable to certify the summary as a fair and truthful representation of the proposed amended statute for the following reasons:

First, the summary contains a material omission. The summary states that existing R.C. 2744.03 would be amended by removing subsections (A)(6)(a), (A)(6)(b), and (A)(6)(c); but the proposed amended statute would actually remove subsection 6 of R.C. 2744.03 in its entirety, not just the subsections. In addition to this misstatement, the summary otherwise fails to delineate the proposed changes to the statute. That is, the proposed amended statute does not contain strikethroughs of the language that is being removed, nor does it use any other method to delineate the proposed changes. Because the proposed amended statute does not otherwise delineate the changes to R.C. 2744.03, a potential signer would have no way of discerning the actual language

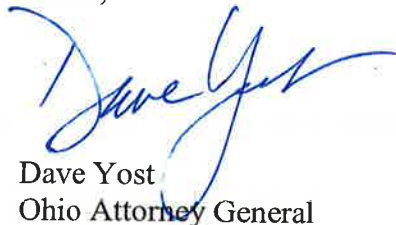
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to be removed from the existing statute even if they perused the proposed amended statute at length.

Finally, the title of the summary and proposed amended statute—"The Ohio Civil Liberties Restoration Act"—is misleading on its face. The subject statute provides the statutory framework for qualified immunity in Ohio. It is misleading to a potential sign to summarize the amendment of the qualified immunity statute as "restoring civil liberties." Therefore, the title is misleading when compared to the proposed amended statute, because it would cause a potential signer to believe that the proposed amended statute has a different effect than its actual effect.

In total, because of these material defects, the summary does not properly advise a potential signer of the proposed amended statute's character and limitations. For these reasons, I am unable to certify the summary as a fair and truthful statement of the proposed amended statute. Finally, I recommend that the Petitioners carefully review and scrutinize the remainder of the summary to ensure that it accurately captures the proposed amended statute's definitions, contents, and limitations before it is resubmitted to this Office.

Yours,



Dave Yost  
Ohio Attorney General

cc: Committee to Represent the Petitioners

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