

## Constitutional Revision & Updating Committee

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Chairman Mulvihill, thank you for inviting me to submit some thoughts that I would like the Constitutional Revisions & Updating Committee to consider concerning the procedures for amending statutes. I share the concern that we need to find a way to encourage more use of the statutory initiative instead of loading the state constitution with inappropriate amendments. We all understand that anyone with enough money can get sufficient signatures to get anything on the ballot, so my comments only concern citizen initiatives that cannot afford to hire unlimited numbers of petition circulators.

### **Distribution of signatures**

My experience is that meeting the 44-county distribution requirement for signatures is in fact very difficult if you are depending mostly on volunteer petition circulators. So I would strongly support reducing the number of counties that are required for a statutory initiative. I think 22 is reasonable if we really want to encourage the statutory instead of constitutional amendment. Reducing the number of counties required does not reduce the total number of signatures required to qualify for the ballot. I have attached a listing of Ohio counties, from the smallest to the largest, so it may be easier to judge the effect of changing from requiring 44 to perhaps 22 or 30 or 33.

### **Current indirect statutory two-step initiative procedure**

The current procedure is very difficult for citizen initiative groups to use. It requires them to organize and train their adherents to collect more than 100,000 signatures in support of their initiative; and then they must wait for 4 months to see what the legislature does with it. They could continue to collect more signatures, but that is an enormous waste of effort if the legislature enacts an acceptable bill. So they usually just wait to see what happens. When the legislature does not act, they then must re-energize their volunteers and mobilize a second petition drive for another 100,000+ signatures. It is much easier to mobilize just once and get all your signatures in that one big push, even though it takes more than 350,000, to amend the constitution.

### **An alternative proposal**

Prof. Steinglass mentioned that Utah allows both indirect and direct statutory initiatives. Perhaps Ohio should add a third choice: in addition to initiated constitutional amendment and indirect initiated statute, we could also have a procedure for a direct initiated statute. Here is how this might work.

**1. Constitutional amendment.** Keep the current procedure, including both the 10% signature requirement and the 44-county distribution requirement – because it should be rather difficult to amend the constitution.

**2. Indirect initiated statute.** Keep the two-step procedure and the 3% signature requirement, but reduce the county distribution requirement to 22-33 counties. Add language that protects any such initiated statute from legislative change except by a 2/3 or 3/4 majority or by approval by the initiative committee members. This somewhat simplified process might encourage more use of statute instead of constitutional amendment.

**3. Direct initiated statute.** Add another option that avoids the two-step roadblock. Increase the signature requirement slightly – perhaps to 4 or 5% – and use the smaller distribution requirement of 22 counties. The initiated statute goes directly to the ballot at the next general election, but it is not protected from change by the legislature (though it should be protected from the immediate lame duck session!).

Leave it up to the initiative committee to decide which process they want to use.

I would be pleased to discuss these ideas with the committee. I want to be clear that these are not League of Women Voters of Ohio positions, but are based on my own experience. Thank you for this opportunity.