



**TESTIMONY OF PAUL JACOB
PRESIDENT OF CITIZENS IN CHARGE
BEFORE THE OHIO CONSTITUTIONAL MODERNIZATION COMMISSION
JUNE 8, 2017**

Co-chairs Senator Tavares and Representative Dever and Commission members, my name is Paul Jacob and I'm president of Citizens in Charge, a national group dedicated to protecting the initiative and referendum rights of every American without regard to politics or partisanship.

Thank you for the opportunity to address the Report and Recommendation of the Constitutional Revision and Updating Committee.

Citizens in Charge urges the Ohio Constitutional Modernization Commission (OCMC) to reject in its entirety the committee's proposed recommendation regarding Article II, Section 1(a).

The current requirement for the voters to enact a constitutional change, a simple majority vote, is the best policy. Please don't abandon majority rule. Requiring a supermajority of 55 percent for voters to amend their constitution creates minority rule. It means that 45.1 percent of voters have more power and say-so than 54.9 percent of voters.

Under the committee's proposed regulation, consider what might happen to a reform measure — say, term limits, campaign finance reforms, ethics reforms, or greater government transparency — an initiative constitutional amendment proposed by hundreds of thousands of Ohio voters signing petitions in an effort organized by grassroots citizens of middle class means. The campaign might be opposed and dramatically outspent by powerful special interests uninterested in reform — running millions in TV and radio and internet ads against a grassroots campaign without the resources to run any paid advertising at all. The people of Ohio would then hear and see hundreds of messages against and few if any in favor of the reform proposal. Yet, making their own decision, most Ohioans vote for the ballot measure, which garners 54.9 percent of the vote.

The recommendation before the Commission would see that hypothetical amendment defeated. The special interests would prevail against a sizeable majority of citizens interested in reform. Which just doesn't make sense.

Making even less sense would be for that hypothetical constitutional amendment, or for any constitutional amendment, to be defeated when 54 percent vote of Ohioans vote for it

if it is proposed by citizens, while it would win and become part of the state constitution with much less support, five percentage points less, ***if it is proposed by state legislators***.

It is an unacceptable double standard.

The committee's recommendation also exacerbates the current double standard as to which ballots constitutional amendments may appear. Currently, citizens can petition to place an initiative amendment only on the November election ballots, while legislators can place an amendment on any ballot, even a special election ballot.

Rather than further limiting citizens to only November elections in even-numbered years, as does this recommendation, the commission should recommend that the legislature have the same access that citizens do now – November elections in both even and odd-numbered years.

The committee's recommendation openly seeks to push citizens into opting to propose statutes rather than constitutional amendments. That may serve the interests of the legislature, but it does not serve the interests of citizens.

Citizens require a functioning constitutional initiative process to hold accountable their legislative servants, and their government as a whole. While a safe-harbor provision for initiative statutes, where the will of voters cannot be overturned for five years without a supermajority vote by the legislature, is better public policy, it still leaves legislators, the intended servants of the people, with the power to overrule the people.

On behalf of Citizens in Charge, I urge the Commission to reject double standards and minority rule by defeating the recommendation of the Constitutional Revision and Updating Committee regarding Article II, Section 1(a).

Ohioans deserve greater access to initiative and referendum, not restricted access and not second-class access, held subservient to their legislators.

Townhall

The Heart of a Double Standard

By Paul Jacob 6/4/2017

“All animals are equal, but some animals are more equal than others.” That became the regime’s explanatory slogan in George Orwell’s allegorical novel, *Animal Farm*.

People are animals, too, of course . . . in the biological sense. And oftentimes in the other sense, too. Especially politicians.

There is a move afoot in Ohio — the Buckeye State, by official motto said to be “the Heart of It All” — to make state legislators more equal than regular ordinary citizens. And in a very important area: amending the state constitution.

This week, the Ohio Constitutional Modernization Commission (OCMC) will consider a recommendation to make it more difficult to amend the state constitution, but bizarrely, that greater difficulty would depend entirely on who proposes the amendment.

Most amendments are put forth by state legislators. OCMC contemplates no change in legislators’ ability to place amendments on the ballot, or in the simple majority vote required for passage. No, the OCMC has its eyes focused on initiative constitutional amendments proposed by citizens, who are already required to get hundreds of thousands of voters to sign petitions.

Who created this Ohio Constitutional Modernization Commission? You guessed it — the legislators. The commission itself is made up largely of legislators, lobbyists and insiders.

The recommendation under consideration by the OCMC makes citizen initiatives tougher in a number of ways, but most unhelpfully it would require only citizen-proposed ballot measures to garner a supermajority of 55 percent of the vote.

Consequence? If a reform measure proposed by citizens — say, term limits, campaign finance reforms, ethics reforms, or greater government transparency — is dramatically outspent by powerful special interests, and yet still wins 54.9 percent of the vote, it would lose.

Yes, the 45.1 percent of voters would defeat the 54.9 percent of voters.

Call it “New Math.”

Abandoning majority rule and allowing a minority to block change is a terrible mistake. But you can see how the commission gave away the insider political game they are playing. All you need to see is the double standard, treating citizen-initiated amendments

differently than legislatively referred amendments. It makes no sense unless what you’re after is shifting the political balance so that citizens cannot use the initiative to hold accountable their “servants” in the legislature.

Is that the actual intent? Who knows? Regardless, it will be the result.

Several other interesting and, of course, problematic provisions are in the recommendation the OCMC will take up this Thursday.

Continuing the double standard theme, OCMC suggests that while the legislature can place a constitutional amendment on any ballot — even a special election — citizen-initiated measures must be further restricted to only be voted on in even-year November elections. Between arguments about voter turnout and the need for addressing problems more promptly, one might favor restricting constitutional amendments to certain ballots or not. But there’s no reasonable rationale for applying these restrictions just to those measures proposed by citizens.

The OCMC also seeks to provide “that the one amendment requirement for General Assembly-initiated constitutional amendments also applies to initiated constitutional amendments.” Ah, the OCMC finally met a double standard it didn’t like: one that advantages citizens over legislators.

But this OCMC recommendation highlights something else: the extent to which Ohio authorities have sidestepped and ignored the constitution. For decades, the Ohio Ballot Board has split constitutional amendments initiated by citizens into two or three initiatives according to single subject requirement that, well . . . doesn’t exist.

The Ballot Board, comprised mostly of legislators, simply made it up.

And with unconstitutional authority, the board blocked numerous reform proposals — petitioning for multiple measures to accomplish one major reform in effect doubles (or triples) the efforts required. That is just too much for many grassroots activists.

All this may bore those citizens used to being shouted at. It probably seems trivial compared to cable TV arguments about Russian influence in the last election. Or the Paris Accords. Or the horrible weather being predicted for us in 80 or 100 years. But to Ohioans Jack Boyle, Matt Lynch, Ron Alban and many others talking truth to power, it is “The Heart of It All.”

