



June 7, 2017

Ms. Shari L. O'Neill, Interim Executive Director
Ohio Constitutional Modernization Commission
77 S. High Street, 24th Floor
Columbus, OH 43215

Dear Director O'Neill and Members of the Commission:

On behalf of National Taxpayers Union's (NTU) supporters across Ohio, I write to provide brief comments in connection with the Commission's June 8, 2017 public meeting.

Since NTU's founding in 1969, our supporters have placed the highest value on the citizen initiative and referendum (I&R) process for effecting beneficial reforms to advance limited, accountable government. During the late 1970s and early 1980s, citizen-driven constitutional amendments and statutory proposals changed the nature of fiscal policy (in our opinion for the better) coast-to-coast, from California, to Missouri, to Michigan, to Massachusetts. In the 1990s a second wave of the "tax revolt" in places such as Colorado and Florida either introduced or strengthened voter-approval requirements for higher taxes and growth in government expenditures beyond economically-benchmarked levels.

More recently, citizen initiatives at the state and local level have repealed inheritance taxes, attempted to address government employee pension liabilities, phased out transfer taxes, and clarified voter consent provisions over fee increases. Our supporters have been involved in Ohio-based campaigns to enact tax and expenditure limitations (TEs, such as legislative supermajority safeguards to enact tax increases) since the 1970s. Although such measures have not met with huge electoral success in Ohio, they have helped to shape the fiscal policy debate in other ways, by involving the public more fully in reaching a consensus on appropriate, affordable levels of taxation and spending. As Professor Robert Natelson, an expert on Colorado's experience, noted, "TEs work best in an environment conducive to voter initiatives, which may serve as an enforcement mechanism."

NTU concurs with this assessment, and would add that upholding parity in citizen initiative rights where they exist is vital. This process has given at least some Americans a choice between meaningless elections and unfocused, irrational anger at government, ironically providing the very kind of political stability that critics say I&R seeks to upset.

It is therefore with great concern that we learned the Commission was considering a recommendation that would effectively create second-class ballot measure rights for the people of Ohio, thereby conferring an advantage upon elected officials in proposing amendments and statutes during elections. Through a higher vote threshold for passage, restrictions on ballot

placement, new governmental powers to manipulate ballot titles, and other dictates, the recommendation before the Commission denigrates citizens' ballot-measure prerogatives and further consolidates the control of public officials over the I&R process. Such schemes would isolate Ohio from other states, whose first principle has been to strive for parity between the people and their government when it comes to the use of I&R.

Despite such attempts at parity, the reality is that even if the laws are written to apply equally to citizens or government in regard to ballot proposals, the state already has certain extra leverage. Governments have the power of the purse, and therefore access to taxpayer funds, to pursue ballot measures. They also can often avail themselves of more legal counsel (again, funded by taxpayers) to draft their measures and defend them in court. Conversely, governments can also employ these resources against citizen activists attempting to qualify their own proposals or preserve them from adverse rulings. Further compounding this disparity by embedding more obstacles to citizens in the law is neither justifiable nor conscionable.

The historical record conclusively shows that I&R in the United States was specifically constituted to provide the people with a structured, deliberative means of addressing laws and correcting deficiencies of elected and appointed government. We urge all members of the Commission to oppose any plans to weaken this important check and balance, one that has served taxpayers well. We will continue to inform and educate the people of Ohio about any such proposals affecting their I&R rights. Thank you for your consideration of these comments, and I will gladly answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Sepp", with a stylized flourish at the end.

Pete Sepp
President