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May 12, 2021

Via regular U.S. Mail and E-mail

Ms. Chandni Patel
Cpatel201@gmail.com

Re: Submitted Petition for Initiated Constitutional Amendment to Add Article I, Section 22 to the Ohio Constitution— “Civil Action for Deprivation of Constitutional Rights Amendment”

Dear Ms. Patel,

On May 3, 2021, I received a written petition containing (1) a copy of a proposed constitutional amendment to add Article I, Section 22 to the Ohio Constitution, and (2) a summary of the same measure. This petition and summary were submitted to this Office in accordance with Ohio Revised Code (“ORC”) Section 3519.01(A). As you know, one of my statutory duties as Attorney General is to determine whether the submitted summary is a “fair and truthful statement of the proposed law or constitutional amendment.” ORC Section 3519.01(A). 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). 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 Wednesday, May 12, 2021.

Upon reviewing the proposed amendment and comparing it to the summary language, I am unable to certify the summary as a fair and truthful representation of the proposed amendment. First, the summary’s description of the “person” who could be sued is misleading. The proposed amendment provides for a cause of action for deprivation of rights against a “public body” and a “person *acting on behalf of*” a public body. By contrast, the language contained within the first bullet point of the summary indicates that the proposed amendment applies to a “public body or individual *employed by* a public body.” Second, the summary language omits the waiver of sovereign immunity contained in Section (F) of the proposed amendment. By contrast, the fourth bullet point of the summary states that the proposed amendment, “[p]rohibits the use of *statutory immunity* as a defense to actions brought under this section.” The use of the term “statutory immunity” instead of the proposed amendment’s waiver of “sovereign immunity” is misleading.

It is significant to ask voters to make factual findings at the ballot box. A summary that fails to inform a signer of the existence of such findings and declarations does not fairly and truthfully reflect the amendment’s import. Thus, without reaching the balance of the summary, and consistent with my past determination, I am unable to certify the summary as a fair and truthful statement of the proposed amendment. Finally, I recommend that the Petitioners carefully

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review and scrutinize the remainder of the summary to ensure that it accurately captures the proposed amendment's definitions, contents and purport before it is resubmitted to this Office.

Yours,



Dave Yost
Ohio Attorney General

cc: Committee to Represent the Petitioners

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