



Date: June 15, 2021

To: The Conference Committee Members for Amended Substitute House Bill 110

Re: Voter Rights Groups Raise Grave Concerns Over Harmful Budget Amendments that Handcuff Election Officials, Politicize the Judiciary, and Violate the Separation of Powers.

cc: Governor DeWine, AG Yost, SOS LaRose, Ohio General Assembly, Statehouse Press

The Ohio Voter Rights Coalition (OVRC) and its steering committee member organizations, All Voting is Local, the ACLU of Ohio, Common Cause Ohio, the League of Women Voters of Ohio, and Ohio Voice write to share grave concerns about several provisions included in the Senate passed version of Amended Substitute House Bill 110, the state operating budget. These provisions, some from separate stand alone legislation, or newly introduced, were added to HB 110 after public testimony concluded, leaving OVRC and other voter advocates without an opportunity to address the Ohio General Assembly and share concerns.

Both the policies and the process are troubling. The state operating budget should be focused on the fiscal stability of the state and its residents, not a vehicle for harmful amendments that eliminate support for election administrators and voter education, politicize the judiciary, and violate the separation of powers.

Specifically, OVRC would like to see the provisions below removed from HB 110 during the conference committee process.

SOSCD15: Secretary of State Funding and Abolishment of Citizens Education Fund

In 2020, the Center for Tech and Civic Life made critical election administration investments in 66 of Ohio's 88 counties. These dollars were used for multiple purposes including making accessibility upgrades in compliance with the Americans with Disabilities Act at the Hocking County Board of Elections, purchasing new electronic poll books in Warren County, acquiring new laptops in Fulton County, and providing necessary medical supplies to poll workers, such

as masks and gloves, in counties across the state. Bipartisan Boards of Election approved and oversaw these expenditures, as is their standard decision-making process. Given that nearly every Board of Election faced budget shortfalls after the prolonged primary as well as record high turnout during a global pandemic, public-private partnerships like this should be applauded, not limited. This language also appears to limit Boards of Elections ability to secure in-kind donations of critical supplies such as hand sanitizer.

If the General Assembly wants to put guardrails around public-private partnerships, OVRC stands ready to work with lawmakers to craft language to do so, but this should not be rushed through a budget process.

The Citizen Education Fund is a dedicated purpose fund group consisting of donations (both monetary and in-kind), gifts, and grants to be used for voter education and administration. According to the [Ohio Checkbook](#), the Citizen Education Fund is used for purchasing election supplies and materials to supplement state dollars for election administration. Purchases include administrative services from the Cleveland Sight Center, a non-profit organization dedicated to providing services for visually challenged Ohioans, and services from Logically LTD, a technology company focused on identifying and eliminating misinformation and disinformation campaigns. Eliminating the Citizen Education Fund will reduce the Secretary of State's ability to fill funding gaps and engage in innovative voter education, such as the Secretary's voter registration and education partnerships with local barbershops and breweries in 2020.

LOCCD32: Partisan Designation for Judicial Candidates

This language mirrors separate proposals in the General Assembly, House Bill 149 and Senate Bill 80. Throughout the committee process, these bills have received criticism from the [Ohio Judicial Conference](#), [the Ohio Courts of Appeals Judges Association](#), [the Ohio State Bar Association](#), [the Ohio Association of Justice](#), [the Ohio Voter Rights Coalition](#), and [the Ohio Fair Courts Alliance](#) as an unnecessary and harmful politicization of the judiciary. OVRC maintains the position that including a party label next to Supreme Court and Courts of Appeals candidates could lead voters to incorrectly assume a particular judicial candidate has pledged to align their judgements to a partisan agenda – a practice expressly forbidden by the Ohio Code of Judicial Conduct. Put another way, including a party label for certain judicial candidates could give voters the illusion that those judges will consistently adjudicate in a predetermined way, and when these judges don't, voters could be cynical and distrustful of future judicial rulings.

At a minimum, if we are to fundamentally alter the manner by which we elect judges, we should not do it through a budget amendment. We urge the General Assembly to remove this provision from HB 110, and continue to review the legislation through the committee process as stand alone bills.

AGOCD37 and SENCD2: Court Settlements and Redistricting Lawsuits

OVRC strongly suggests this language be removed from HB 110. This language poses significant separation of powers concerns by prohibiting the Attorney General from entering settlements or agreements during a lawsuit challenging the validity of state law. This prohibition is an overreach by the legislature into the executive's authority as a co-equal branch of government responsible for enforcing the laws the General Assembly creates. We are concerned that this provision will extend litigation proceedings at the taxpayers expense and create an atmosphere of uncertainty for the Attorney General, plaintiffs, and judges. The legal intricacies of these provisions have not been fully vetted and the implications and consequences of enacting these provisions remain unknown. Changing the nature of litigation against the state deserves a full public debate where we can come to a firm understanding of its ramifications.

Ohioans support fairness in our democracy. We voted overwhelmingly -- by over 70%, in all 88 counties statewide -- to reform state legislative and congressional redistricting. The people of Ohio have made it abundantly clear, repeatedly, that they want a fair, bipartisan process with transparency and public participation. Adding unvetted, last-minute amendments impacting redistricting litigation to the budget violates the clear mandate for transparency. To alter the process does not live up to the letter or spirit of the Ohio Constitution.

Both of these last-minute legislative power grabs weaken a fundamental building block of our representational democracy: the separation of powers. Without meaningful checks and balances between the three branches of Ohio's government, no Ohioan can truly be served or fully trust that government is working on their behalf.

Conclusion

The state operating budget is not an appropriate vehicle for enacting anti-democratic policies. The proposed amendments should be removed, because they contain three distinct harms: impairing voter education and election administration, politicizing and undermining public confidence in our judiciary, and violating the separation of powers.

First, by cutting funding streams and in-kind support through public-private partnerships for election administration and voter education, the General Assembly is undermining vital infrastructure to support the work of administering elections. Rather than eliminate public-private partnerships for election administration, the state of Ohio should support these efforts as a way to supplement state dollars in promoting civic engagement and participation. The elimination of additional voter education resources also contradicts supporting arguments for including judicial party affiliation on the ballot, which sponsors of both HB 149 and SB 80 have characterized as necessary for [voters to have as much information as possible before entering the voting booth](#).

Second, OVRC (and leading members of the legal community) contend that including party identifiers for select judicial candidates has the potential to undermine voters' faith in the impartiality of the judicial branch. This is a position explicitly cited as a reason for nonpartisan judicial campaigning set forth in [Canon 4 of the Ohio Code of Judicial Conduct](#).

Third, prohibiting the Attorney General from entering a settlement or agreement during a lawsuit challenging the validity of state law, violates the separation of powers. This amendment will undoubtedly cost taxpayers additional dollars through extended litigation proceedings. Unfortunately, this provision continues the trend of the Ohio General Assembly asserting authority where it has none. The General Assembly has the constitutional authority to create laws. The state legislature has no constitutional authority to act in the enforcement of those laws.

For these reasons we urge the removal of SOSCD15, LOCCD32, AGOCD37, and SENCD2 from Am. Sub. HB 110 during the conference committee process.