



**OHIO CONSTITUTIONAL MODERNIZATION COMMISSION
CONSTITUTIONAL REVISIONS AND UPDATING COMMITTEE**

**Thursday, December 11, 2014
2:15 pm
Statehouse Room 114**

Agenda

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
 - Meeting of October 9, 2014
- IV. Presentation
 - “The Ohio Ballot Board”
 - Carrie Kuruc
 - Elections Counsel
 - Ohio Secretary of State
- V. Committee Discussion
 - Discussion of future topics and presentations to be considered by the committee
- VI. Public Comment
- VII. Adjourn

Carrie Kuruc
Elections Counsel
Ohio Secretary of State Jon Husted

Carrie Kuruc is an Elections Counsel in the office of Ohio Secretary of State Jon Husted and provides support for matters pending before the Ohio Ballot Board. Prior to joining the office in 2011, Carrie spent more than five years as a Rules Analyst with the Joint Committee on Agency Rule Review in the Ohio General Assembly. She received her law degree with a Certificate in Alternative Dispute Resolution from The Ohio State University Moritz College of Law in 2004 and a bachelor's degree in Spanish from Duquesne University in Pittsburgh, Pennsylvania in 2001.

AMENDMENT AND LEGISLATION

PROPOSED CONSTITUTIONAL AMENDMENTS, INITIATED LEGISLATION, AND LAWS CHALLENGED BY REFERENDUM, SUBMITTED TO THE ELECTORS

Compiled through 1954 by
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Director, Legislative Reference Bureau and
Brought up to date through 2014 by
Jon Husted
Secretary of State
(updated 6/11/2014)

AMENDING THE CONSTITUTION

The people of Ohio participated directly in making their constitution, and it cannot be amended without their consent. In 1849 the General Assembly submitted to the people of the state a proposition to call a constitutional convention. A majority voted to do so. A constitutional convention was elected, it rewrote the constitution, and the new constitution was submitted to a vote of the people on June 17, 1851. Having received a majority vote, the new constitution went into effect on September 1, 1851, superseding Ohio's original constitution which had been adopted in 1802. The Constitution of 1851 has been amended many times since its adoption. Each of the procedures described below has been used.

CONSTITUTIONAL CONVENTION--A convention may be called to amend or revise the constitution, but any amendment or revision it proposes does not become effective unless adopted by the people by majority vote. There are two ways to call such a convention. First, it may be called at any time by a two-thirds vote of both houses of the General Assembly, which has never been done. Second, every twenty years a statewide election must be held on the question of calling a convention.

In 1871 the first election on this question was held, and the people voted for a convention, and consequently delegates were elected. This convention rewrote the constitution, but when the revised constitution was submitted to the people, they rejected it. In 1891 the people voted against calling a convention. In 1910 they voted to call a convention. The ensuing convention wrote 41 amendments, which were submitted to the people at the general election in November 1912. Thirty-three were adopted by the people, and eight were rejected. The 33 amendments amounted to a significant revision of the constitution. This was the last time, however, that the constitution was amended in this way. In 1932, 1952, 1972 and 1992, the people voted against calling a convention. The question will appear on the ballot again in 2012.

JOINT RESOLUTION--A second method of amending the constitution is for the General Assembly to pass a joint resolution proposing an amendment. Such a proposal becomes an effective amendment only if the people vote to accept it. The joint resolution must be passed by a three-fifths majority of the members elected to each house of the General Assembly.

INITIATIVE PETITION--The third method of amending the constitution was proposed by the constitutional convention in 1912 and adopted by the people by their vote on June 17. Essentially, it is a method whereby the people propose an amendment by petition, their proposal appears on the ballot, and if a majority vote favorably, the proposal becomes an amendment to the constitution. No action by the General Assembly is involved. Constitutional and statutory requirements must be followed.

Each of these various procedures provides a different method for proposing amendments. No amendment is adopted, however, except by vote of the people.

INITIATIVE AND REFERENDUM

A discussion of initiative and referendum must almost necessarily begin with definition of the terms. These words are often confused and used interchangeably. Initiative and referendum are not, however, the same thing. Each word has its own precise meaning.

Initiative is a process whereby the people make laws, directly and without action by a legislature. Ordinarily, the process involves the circulation of a petition asking for the law, and then an election on the question of whether the proposition shall become law.

Referendum is a process whereby the people block legislation enacted by a legislative body, preventing its going into effect. Most types of laws do not go into effect for some time after their passage--thirty to ninety days. If during that time a referendum petition is filed, the law does not go into effect until an election is held to determine the peoples' will in the matter. If a majority vote against it, it is killed.

STATE INITIATIVE--The Constitution of Ohio provides that interested citizens may, by petition, submit a proposed law to the General Assembly. A petition for that purpose must be signed by qualified electors of the state equal in number to 3% of the total votes cast for governor at the last preceding state election. Such a petition is filed with the Secretary of State, and if he finds it sufficient, he submits the proposed law to the General Assembly. If after four months the General Assembly has not passed the proposed law, a supplementary petition bearing the signatures of another 3% of the electors may be filed and in that case the proposed law will be submitted to the people at the next general election. If at that election a majority of the people vote for the proposal, it becomes a law without being enacted by the General Assembly.

STATE REFERENDUM--The Constitution of Ohio provides that, with certain exceptions, laws passed by the General Assembly and signed by the governor do not go into effect for ninety days. During that ninety days, a referendum petition may prevent their going into effect pending an election. If at the election a majority vote against the law, it never goes into effect.

It is important to note that certain types of laws are not subject to this procedure. Those types are: Laws providing for tax levies, appropriations for the current expenses of the state government and institutions, and emergency laws necessary for the immediate preservation of the public peace, health, or safety. An emergency law must be enacted by a two-thirds majority, and the emergency clause must be voted on separately in the General Assembly. These three types of laws--tax levies, appropriations and emergency laws--go into effect immediately upon being signed by the governor, and they are consequently not subject to the referendum.

Assuming that the General Assembly has enacted a law which is subject to referendum, its opponents can file their referendum petition during the ninety day period before it goes into effect. Their petition must bear the signatures of 6% of the electors. If such a petition is filed with the Secretary of State, the law does not go into effect until an election can be held. If the majority vote against the law, it is dead. If the majority vote for it, it goes into effect.

Prohibition of the sale and manufacture for sale of intoxicating liquors as a beverage (Art. XV, Sec. 9):
 Yes--463,354 (Passed) No--437,895

The General Assembly shall classify property for taxation purposes (Art. XII, Sec. 2):
 Yes--336,616 (Passed) No--304,399

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Law may be passed to provide against double taxation that results from the taxation of both the real estate and mortgage or the debt secured thereby, or other lien upon it (Art. XII, Sec. 2):
 Yes--479,420 (Passed) No--371,176

(Note: The amendment to Art. XII, Sec. 2 of the Ohio Constitution submitted under authority of House Joint Resolution No. 34, adopted by the 82nd General Assembly March 12, 1917, received a larger number of votes than the amendment to such section which was proposed by initiative petition; therefore the above amendment submitted by the General Assembly was adopted although both amendments received a majority of the votes cast. State ex rel v. Fulton 99 O.S. 168)

NOVEMBER 4, 1919

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

Defining the phrase "Intoxicating Liquor" (Art. XV, Secs. 9 and 1):
 Yes--474,907 No--504,688 (Failed)

To repeal statewide prohibition (Art. XV, Sec. 9):
 Yes--454,933 No--496,876 (Failed)

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Classification of property (Art. XII, Sec. 2):
 Yes--439,987 No--517,245 (Failed)

LAWS PASSED BY THE GENERAL ASSEMBLY SUBMITTED TO THE PEOPLE BY REFERENDUM PETITION:

S.J.R. No. 4--Ratifying national prohibition:
 Yes--499,971 No--500,450 (Failed)

H.B. No. 24--The Crabbe Act. To provide for state prohibition and its enforcement:
 Yes--474,078 No--500,812 (Failed)

NOVEMBER 2, 1920

Law passed by the general assembly submitted to the people by referendum petition:

H.B. No. 620--The Crabbe Act. To provide for state prohibition and its enforcement:
 Yes--1,062,470 (Passed) No--772,329

NOVEMBER 8, 1921

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To provide for a soldier bonus (Art. VIII, Sec. 2A):
 Yes--949,109 (Passed) No--324,447

To provide for the apportionment of the members of the General Assembly by dividing the state into twenty-six senatorial districts (Art. XI, Sec. 7):
 Yes--336,574 No--518,524 (Failed)

To authorize the levying of a poll tax (Art. XII, Sec. 1):
 Yes--244, 509 No--672,581 (Failed)

NOVEMBER 7, 1922

CONSTITUTIONAL AMEMDMENTS PROPOSED BY INITIATIVE PETITION:

To provide for 2.75 per cent beverage (Art. XV, Secs. 9 and 1):
 Yes--719,050 No--908,522 (Failed)

To provide for debt limitation, etc., for counties, school districts, townships, municipal corporations, or other political subdivisions (Art. VIII, Sec. 13):
 Yes--499,203 No--691,471 (Failed)

To provide a limitation on tax rates of 15 mills, but additional levies may be authorized by vote. State tax rate limited to 1 mill (Art. XII, Sec. 1):
 Yes--475,740 No--720,237 (Failed)

NOVEMBER 6, 1923

CONSTITUTIONAL AMEMDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To amend the Workmen's Compensation law increasing the authority of the Industrial Commission (Art. II, Sec. 35):
 Yes--588,851 (Passed) No--528,572

Eliminating the words "white male" from the Ohio Constitution to conform to federal amendments (Art. V, Sec. 1):
 Yes--536,762 (Passed) No--421,744

Authorizing publication of notice of constitutional amendments and proposed laws in newspapers (Art. II, Sec. 1g):
 Yes--351,513 No--493,786 (Failed)

LAWS PASSED BY THE GENERAL ASSEMBLY SUBMITTED TO THE PEOPLE BY REFERENDUM PETITION:

H.B. No. 20--Mr. Taft. Providing for changes in the law relative to tax limitations:
 Yes--367,277 No--728,087 (Failed)

H.B. No. 330--Mr. Albaugh. Making the county the unit for assessment of personal property, and abolishing the office of elective assessor:
 Yes--231,152 No--765,163 (Failed)

PROPOSED LAW BY INITIATIVE PETITION:

Providing for a system of old age pensions:
 Yes--390,599 No--777,351 (Failed)

NOVEMBER 3, 1925

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

Restrictions on the incurring of indebtedness by political subdivisions (Art. VIII, Sec. 13):
 Yes--450,218 No--535,251 (Failed)

Taxation by uniform rule of real property and all tangible personal property except motor vehicles and a different rate for intangible personal property (Art. XII, Sec. 2):
 Yes--435,944 No--501,221 (Failed)

Four year terms for state and county officers (To amend Art. III, Sec. 2 and Art. X, Sec. 2: and to repeal Art. XVII, Sec. 2 and Art. X, Sec. 3):
 Yes--325,451 No--543,183 (Failed)

AUGUST 10, 1926

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Authorizing municipalities to levy assessments for entire cost of public improvements (Art. XVIII, Sec. 11):
 Yes--234,754 No--352,301 (Failed)

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

To provide a ten mill tax limitation on real estate (Art. XII, Sec. 2):
 Yes--979,061 (Passed) No--661,151

Relative to county and township organizations and government, and granting counties home rule government (Repealing existing Sec. 16 of Art. IV and existing Secs. 1, 2, 3, 4, 5, 6 and 7 of Art. X, and adopting new Secs. 1, 2, 3 and 4 of Art. X):
 Yes--846,594 (Passed) No--742,925

RATIFICATION OF PROPOSED AMENDMENT TO UNITED STATES CONSTITUTION:

Proposing to repeal the 18th Amendment:
 For ratification-1,444,033 (Passed) Against ratification-584,238

NOVEMBER 6, 1934

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

Prohibiting the taxation as property of motor vehicles on which license taxes have been imposed and paid, and restricting the use of such licenses to public thoroughfares and related purposes (Art. XII, Sec. 5a):
 Yes--825,157 No--883,373 (Failed)

Requiring motor vehicle fuel excise taxes to be measured by a sum for each gallon or other like unit, and limiting the amount thereof to three cents per gallon and restricting the use of such excise taxes to public thoroughfares and related purposes (Art. XII, Sec. 5b):
 Yes--760,589 No--859,525 (Failed)

NOVEMBER 3, 1936

CONSTITUTIONAL AMENDMENT PROPOSED BY GENERAL ASSEMBLY:

To eliminate the additional liability of stockholders of corporations authorized to receive money on deposits (Art. XIII, Sec. 3):
 Yes--1,078,170 (Passed) No--824,968

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

Prohibiting the levy or collection of an excise tax on the sale or purchase of food for human consumption off the premises where sold (Art. XII, Sec. 12):
 Yes--1,585,327 (Passed) No--719,966

NOVEMBER 8, 1938

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

To provide for the original appointment of judges of the Supreme Court and Courts of Appeals (Art. IV, Sec. 1 to be supplemented by adding Secs. 1a, 1b, 1c, 1d, 1e, 1f and 1g; and amending Secs. 2, 6, 10, 13, 14, 15 and 18):
 Yes--621,011 No--1,237,443 (Failed)

NOVEMBER 7, 1939

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Relative to a State Board of Education (Art. IV, Sec. 4):
 Yes--747,545 No--1,137,054 (Failed)

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

Relative to old age pensions (Art. XII, Sec. 13):
 Yes--464,670 No--1,546,207 (Failed)

Requirements necessary to qualify initiative petitions (Art. II, Sec. 1h):
 Yes--406,612 No--1,485,919 (Failed)

Law passed by the general assembly submitted to the people by referendum petition:

To provide that the compensation of judges of the Supreme Court, the Court of Appeals, Probate Court, and the Court of Common Pleas, and of other courts inferior to the Court of Appeals, may be increased or diminished during their term of office (Art. IV, Sec. 14):

Yes--849,677 No--1,107,646 (Failed)

PROPOSED LAW BY INITIATIVE PETITION:

To increase unemployment compensation:

Yes--865,326 No--1,481,339 (Failed)

NOVEMBER 6, 1956

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To pay a bonus to veterans of the Korean conflict (Art. VIII):

Yes--2,202,510 (Passed) No--889,245

Increasing the terms of members of the State Senate to four years (Art. II, Sec. 2 and Art. XI, Sec. 1, 6, 9, 10 and 11):

Yes--1,636,449 (Passed) No--1,214,643

NOVEMBER 5, 1957

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To permit the appointment to state offices of persons not possessing the qualifications of an elector of the state (Art. XV, Sec. 4):

Yes--696,372 No--1,040,638 (Failed)

To permit new residents of the state, who have not yet attained the qualifications of electors by one year's residence, to vote for President and Vice President only (Art. V. Sec. 1):

Yes--1,072,396 (Passed) No--658,244

To permit the electors of counties to adopt county charters (Art. X, Sec. 3):

Yes--832,912 (Passed) No--799,094

NOVEMBER 4, 1958

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To permit the electors of the counties to form metropolitan federations (Art. X, Sec. 5):

Yes--1,108,383 No--1,410,277 (Failed)

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

To forbid labor contracts which established union membership as a condition for continuing employment (called "right to work") (Art. I, Sec. 1a):

Yes--1,160,324 No--2,001,512 (Failed)

NOVEMBER 3, 1959

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To remove the limitation on the sale of water and sewage services by municipalities outside their corporate limits (Art. XVIII, Sec. 6):

Yes--1,085,378 (Passed) No--775,610

To permit the General Assembly to create additional judgeships in Courts of Appeals where the press of business requires (Art. IV, Sec. 6):

Yes--1,028,914 (Passed) No--809,957

NOVEMBER 7, 1961

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To establish a different method of filling vacancies in the General Assembly (Art. II, Sec. 2):

Yes--1,251,105 (Passed) No--650,064

Continuity of state government in case of emergency caused by enemy attack (Art. II, Sec. 42):

Yes--1,394,429 (Passed) No--516,992

To increase the age limits for the militia, provide for calling out the militia in time of disaster, and to conform the Constitution of Ohio to federal law (Art. IX, Secs. 1, 3 and 4):

Yes--947,130 (Passed) No--944,705

To provide for appointments being made subject to the advice and consent of the Senate (Art. III, Sec. 21):

Yes--1,168,831 (Passed) No--642,512

NOVEMBER 6, 1962

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

To limit the power of the state to forbid the sale of certain goods and services on Sunday (Art. I, Sec. 21):

Yes--1,274,792 No--1,697,433 (Failed)

NOVEMBER 5, 1963

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To raise the public debt limit by 250,000,000 dollars to permit the state to issue bonds in that amount for public improvements (Art. VIII, Sec. 2f):

Yes--1,397,971 (Passed) No--922,687

MAY 5, 1964

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To raise the public debt limit by 500,000,000 dollars to permit the state to issue bonds in that amount for highways (Art. VIII, Sec. 2g):

Yes--1,011,817 (Passed) No--538,684

MAY 4, 1965

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To guarantee loans to residents attending institutions of higher education (Art. VI, Sec. 5):

Yes--847,927 (Passed) No--438,945

Bond issue for development (Art. VIII, Sec. 2h):

Yes--715,642 (Passed) No--548,557

To apportion the House of Representatives (Art. XI, Secs. 1, 3, 8, 10 and 11; Art. XI, Secs. 4 and 5):

Yes--595,288 No--681,283 (Failed)

To guarantee loans for industrial development (Art. VIII, Sec. 13):

Yes--711,031 (Passed) No--542,802

NOVEMBER 2, 1965

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To authorize the same person to serve as judge of more than one court in counties of less than 40,000 population (Art. IV, Sec. 23):

Yes--1,194,966 (Passed) No--1,073,671

To authorize the creation of an urban service authority (Art. X, Secs. 5 and 6):

Yes--892,657 No--1,346,597 (Failed)

PROPOSED LAW BY INITIATIVE PETITION:

To amend the school foundation program and to increase taxes to support it:

Yes--805,762 No--1,717,724 (Failed)

NOVEMBER 2, 1971

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To require newspaper in lieu of mail notice of laws, proposed laws, or proposed amendments to the constitution (Art. II, Sec. 1g):
 Yes--1,645,961 (Passed) No--900,549

NOVEMBER 7, 1972

MANDATORY SUBMISSION OF CONSTITUTIONAL QUESTION:

Shall there be a convention to revise, alter or amend the constitution:
 Yes--1,291,267 No--2,142,534 (Failed)

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

Conditions for Prohibitions Upon the Levy of a Tax on Income, Except a Municipal Income Tax, or Increasing the Rates Thereof, Without the Approval of a Majority of the Voting Electors (Art. XII, Sec. 8):
 Yes--1,164,653 No--2,571,516 (Failed)

MAY 8, 1973

CONSTITUTIONAL AMENDMENTS PROPOSED BY GENERAL ASSEMBLY:

To authorize the state to conduct lotteries, the net proceeds of which shall be paid into the general revenue fund of the state (Art. XV, Sec. 6):
 Yes--973,956 (Passed) No--547,655

To permit the obtaining of possession before payment in the taking of property for water and sewage purposes (Art. I, Sec. 19):
 Yes--405,035 No--993,245 (Failed)

To repeal a section of the Ohio Constitution relative to disqualification from holding public office (Art. II, Sec. 5):
 Yes--530,232 No--848,743 (Failed)

To repeal a section of the Ohio Constitution relative to a Supreme Court Commission (Art. IV, Sec. 22):
 Yes--563,919 No--692,623 (Failed)

*Relative to Amendments to Court rules of practice and procedure (Art. IV, Sec. 5):
 Yes--580,106 No--679,223 (Failed)

*Relative to the Compensation of Judges (Art. IV, Sec. 6):
 Yes--646,384 No--677,787 (Failed)

Relative to the administration, organization and procedures of the General Assembly (Proposing to amend Sections 4, 6, 7, 9, 11, 14 and 16 of Art. II, to enact new Sections 8 and 15 or Art. II, and to repeal Sections 8, 15, 17, 18, 19 and 25 of Art. II):
 Yes--680,870 (Passed) No--572,980

NOVEMBER 6, 1973

CONSTITUTIONAL AMENDMENTS PROPOSED BY GENERAL ASSEMBLY:

To permit agricultural land to be valued for taxation in accordance with its agricultural use (Art. II, Sec. 36):
 Yes--1,810,630 (Passed) No--567,189

To authorize the General Assembly to provide by law for the amount of income which is exempt from taxation (Art. XII, Sec. 8):
 Yes--1,299,882 (Passed) No--883,123

Relative to the Administration and Organization of the Courts of Ohio
(Art. IV, Secs. 1, 4, 5 and 6):
Yes--1,317,379 (Passed) No--778,466

To authorize the issuance of bonds or notes to provide a veterans bonus for
Vietnam and other military service (Art. VIII, Sec. 2j):
Yes--1,650,120 (Passed) No--647,629

*Presented as separate questions request of legislature.

MAY 7, 1974

CONSTITUTIONAL AMENDMENTS PROPOSED BY GENERAL ASSEMBLY:

To equalize the compensation of Public Officers and Members of the General
Assembly (Art. II, Secs. 20 and 31):
Yes--611,726 No--747,518 (Failed)

To permit increases in the compensation of Public Officers with more than
two years remaining in their terms (Art. II, Sec. 20a):
Yes--365,921 No--992,978 (Failed)

To provide for preparation of ballot language on constitutional amendments
proposed by the General Assembly, to provide procedures for timely
challenges to such language, and to provide information to voters about such
amendments (Art. XVI, Sec. 1):
Yes--964,885 (Passed) No--376,022

NOVEMBER 5, 1974

CONSTITUTIONAL AMENDMENTS PROPOSED BY GENERAL ASSEMBLY:

To permit laws reducing real estate taxes on the homesteads of permanently
and totally disabled residents (Art. XII, Sec. 2):
Yes--2,266,355 (Passed) No--492,813

To repeal a section of the Ohio Constitution which requires the Governor to
appoint a Superintendent of Public Works for a one-year term (Art. VII, Sec.
12):
Yes--1,463,408 (Passed) No--995,748

To include the following among the purposes for which public industrial
development revenue bonds may be issued and loan guarantee programs
undertaken, without obligating or pledging moneys raised by taxation: 1.
The preservation of existing jobs; 2. The control of air, water and thermal
pollution; 3. The disposal of solid waste, and 4. The construction of
electric and gas utility services facilities for pollution control or solid
waste disposal (Art. VIII, Sec. 13):
Yes--1,613,444 (Passed) No--882,778

NOVEMBER 4, 1975

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

To create and preserve jobs by the authorization of tax incentives to
industrial plants (Art. XII, Sec. 13):
Yes--573,874 No--2,164,957 (Failed)

To authorize the issuance of bonds and notes in an amount not to exceed one
billion seven hundred fifty million dollars (\$1,750,000,000) to be paid from
an additional levy of nine-tenths (9/10) of one cent (1¢) per gallon
gasoline tax, commencing April 1, 1976 and from other highway funds and the
general revenue fund if the additional gasoline tax moneys are insufficient,
for the development, restoration, and upgrading of highways and other
transportation facilities (Art. VIII, Sec. 2k):
Yes--439,041 No--2,304,854 (Failed)

Relative to the authority of the state, municipal corporations and counties
to provide assistance with respect to housing and nursing, extended care and
other health facilities (Art. VIII, Sec. 14):
Yes--869,437 No--1,882,454 (Failed)

To authorize the issuance of bonds and notes in the amount not to exceed two billion seven hundred fifty million dollars (\$2,750,000,000), with the principal and interest to be paid by an additional levy of seven-tenths (7/10) of one (1) per cent sales and use tax commencing July 1, 1976, and from the general revenue fund, if such additional tax moneys are insufficient, for capital improvements for cities, villages, counties, and other subdivisions and for other capital improvements including energy facilities and heart and cancer facilities (Art. VIII, Sec. 21):

Yes--487,326

No--2,219,093 (Failed)

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To authorize laws to be passed which permit land that is devoted exclusively to outdoor recreation to be valued for tax purposes at its current value for recreational use, except land which is utilized and controlled or owned by an organization or person who discriminates against or violates the civil rights of individuals (Art. II, Sec. 36a):

Yes--1,014,425

No--1,539,423 (Failed)

To require the General Assembly to provide by law methods to give each candidate's name reasonably equal treatment on the ballot by rotation or other methods appropriate to the voting procedure used (Art. V, Sec. 2a):

Yes--1,619,219 (Passed)

No--915,599

To require delegates to national conventions of political parties to be chosen by the voters in a manner provided by law (Art. V, Sec. 7):

Yes--1,653,931 (Passed)

No--906,156

To permit the state, or any city, village, county, township or regional transportation authority to give or loan its credit to aid federal corporations and state agencies for reorganization of rail systems in the state. Laws may be passed to reduce the taxation on property used to provide the state with rail transportation service and to permit the state to reimburse local governments for revenue lost as a result of such tax reductions. Moneys raised by taxation shall not be obligated or pledged for the payment of bonds or other obligations issued pursuant to this section (Art. VIII, Sec. 14):

Yes--871,726

No--1,614,597 (Failed)

To permit the general assembly to authorize and regulate the operation of bingo conducted by charitable organizations for charitable purposes (Art. XV, Sec. 6):

Yes--1,405,453 (Passed)

No--1,205,009

JUNE 8, 1976

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To require the Lieutenant Governor to be elected jointly with the Governor, and to provide for the duties of the Lieutenant Governor (Art. III, Sec. 3; Art. V, Sec. 2a; adopt Art. III, Sec. 1a, 1b; repeal Art. III, Sec. 16):

Yes--1,085,175 (Passed)

No--689,244

To provide rail transportation services (Adopt Sec. 14 of Art. VIII):

Yes--775,697

No--953,322 (Failed)

To authorize issuance of bonds for projects to conserve energy or energy resources (Art. VIII, Sec. 13):

Yes--819,424

No--833,454 (Failed)

Relative to the qualifications of electors and to remove unconstitutional and unnecessary language (Art. V, Secs. 1 and 4; repeal Art. V, Secs. 3 and 5):

Yes--975,196 (Passed)

No--743,060

Relative to elections, terms of office and vacancies and to remove unnecessary language (Art. XVII, Secs. 1 and 2):

Yes--954,446 (Passed)

No--668,159

To require political divisions to make provisions for payment of debt from taxation or other sources and to specify property tax limitations (Adopt Art. XII, Sec. 7; repeal Art. XII, Sec. 11):

Yes--675,012 No--890,896 (Failed)

To require a return of not less than 50% of the estate taxes to political subdivisions, etc. (Art. XII, Secs. 4 and 9):

Yes--951,310 (Passed) No--699,823

To consolidate into one section provisions for imposition of taxes and to clarify language (Adopt Art. XII, Sec. 3; repeal Art. XII, Secs. 7, 8, 10 and 12):

Yes--918,450 (Passed) No--712,489

NOVEMBER 2, 1976

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

Relative to limiting the rates which may be charged to residential consumers for fixed amounts of gas and electricity (Adopt Art. XIX):

Yes--1,247,388 No--2,334,816 (Failed)

Relative to providing for representation of residential utility regulatory actions affecting their interests (Adopt Art. XX):

Yes--1,092,781 No--2,557,265 (Failed)

Relative to establishing procedures for legislative hearings and approval of safety features of nuclear power plants and related facilities (Adopt Art. XV, Sec. 11):

Yes--1,150,360 No--2,462,000 (Failed)

Relative to simplifying the procedures for initiative and referendum (Adopt Sec. 1 of Art. II and Art. XIV; repeal Secs. 1a, 1b, 1c, 1d, 1e, 1f and 1g of Art. II):

Yes--1,175,410 No--2,407,960 (Failed)

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To provide for certain provisions in regard to the Governor and Lieutenant Governor (Adopt Secs. 15, 16 and 17 of Art. III; repeal Secs. 15 and 17 of Art. III):

Yes--2,388,184 (Passed) No--1,048,967

To eliminate from the Constitution obsolete and unnecessary provisions (Repeal Secs. 2, 5 and 8 of Art. XV):

Yes--2,284,178 (Passed) No--1,129,165

To require the declaration of election results for state executive officers at the next regular session of the General Assembly (Art. III, Sec. 3; repeal Sec. 4 of Art. III):

Yes--2,297,422 (Passed) No--1,103,822

NOVEMBER 8, 1977

CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE PETITION:

To provide that a person is entitled to vote if he has been registered for thirty days. Elector failing to vote at least once in four consecutive years must register again before voting. (Amends Sec. 1 of Art. V):

Yes--1,964,361 (Passed) No--1,225,852

Prohibits use of leghold traps or any trapping device causing prolonged suffering (Adopts Art. XIX):

Yes--1,169,068 No--2,027,642 (Failed)

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

Authorizes state, municipal corporations and counties to lend aid and credit and issue bonds or notes for housing; validates bond authority of Sub. H.B. 870 (Amends Art. VIII by adopting Sec. 14):

Yes--1,120,885 No--1,773,779 (Failed)

Revises limitations upon state indebtedness (Adopt Sec. 1 of Art. VIII; repeal Secs. 1, 2, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 3, 7, 9 and 10 of Art. VIII and Sec. 6 of Art. XII):

Yes--759,327

No--1,999,791 (Failed)

JUNE 6, 1978

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Requires the Ohio Ballot Board to write ballot language for the state issues; limits advertising of proposals and make requirements for circulating and signing initiative and referendum petitions (Amends Sec. 1g of Art. II):

Yes--720,661 (Passed)

No--379,067

NOVEMBER 7, 1978

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To modify the procedures by which the voters of a county may adopt, amend, or repeal a charter form of county government (Amends Sec. 4 of Art. X):

Yes--1,297,846 (Passed)

No--1,039,259

Allows the General Assembly to regulate prison labor by law; removes Constitutional restrictions on sale of prison-made goods (Amends Sec. 41, of Art. II):

Yes--1,281,941 (Passed)

No--1,083,814

NOVEMBER 6, 1979

PROPOSED LAW BY INITIATIVE PETITION:

To provide mandatory deposits on all bottles and prohibits sale of beverages in metal cans that have detachable pull-tabs.

Yes--768,898

No--2,019,834 (Failed)

JUNE 3, 1980

CONSTITUTIONAL AMENDMENTS PROPOSED BY THE GENERAL ASSEMBLY:

To authorize public financing of electric generating facilities by allowing non-profit corporations to become political subdivisions to operate electric utilities; permits the legislature to pass laws regulating such utilities; allows such political subdivisions to issue bonds (Art. VIII, Sec. 14):

Yes--793,256

No--1,124,596 (Failed)

To authorize the State, municipal corporations and counties to borrow money for the purpose of making available lower cost financing of privately owned housing for persons of low and moderate income (Art. VIII, Sec. 14 (or 15)):

Yes--797,020

No--1,137,028 (Failed)

To authorize the issuance of bonds and notes for construction, restoration or other permanent improvements of bridges, highways, roads, streets and highway rest areas (Art. VIII, Sec. 2k):

Yes--815,011

No--1,084,438 (Failed)

To change the method by which copies of proposed municipal or county charters, or changes to existing charters, are delivered to registered voters (Art. X, Sec. 4 and Art. XVIII, Sec. 8):

Yes--868,199

No--956,204 (Failed)

NOVEMBER 4, 1980

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To authorize the general assembly to classify real property for tax purposes (Art. XII, Sec. 2a):

Yes--1,973,344 (Passed)

No--1,751,277

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Permit the state to finance or assist local governments in financing the construction of improvement of roads and bridges, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities (Art. VIII, Sec. 2k):

Yes--1,674,913 (Passed) No--689,383

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

Change the way Ohio selects its Supreme Court and Appeals Court Judges by abolishing the direct election method and replacing it with an appointment system. (Adopt Sec. 7 and amend Secs. 6 and 13 of Art. IV.

Yes--878,683 No--1,600,588 (Failed)

NOVEMBER 7, 1989

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

Whenever there is a vacancy in the office of the Lieutenant Governor, the Governor shall nominate a Lieutenant Governor who shall take office upon confirmation by vote of a majority of the members elected to each house of the general assembly (Art. III, Sec. 17a)

Yes--1,641,719 (Passed) No--873,114

NOVEMBER 6, 1990

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To allow the state and political subdivisions to provide or assist in providing housing and housing assistance by grants, loans, subsidies, guarantees, or other means as determined by the general assembly. The state may provide funding by issuing obligations, including obligations backed by appropriations of state revenues, but the state's full faith and credit shall not be pledged to retire obligations issued for this purpose. (Art. VIII, Sec. 16)

Yes--1,705,528 (Passed) No--1,517,466

CONSTITUTIONAL AMENDMENT PROPOSED BY THE GENERAL ASSEMBLY:

To permit the general assembly to allow surviving spouses of persons who were receiving a homestead tax reduction at the time of death to continue receiving the reduction if the surviving spouse: (Article XII, Sec. 2)

November 6, 1990

1. Is 60 years old or older, and
2. Continues to live in a qualifying homestead.

Yes--2,967,935 (Passed) No--372,950

CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION:

1. To authorize the licensing of a casino resort hotel, including games by electronic and mechanical devices, for profit, in the City of Lorain as a pilot project for a period not yet specified, but for not less than five years, if approved by the voters of the City of Lorain pursuant to laws required to be enacted by the general assembly.
2. To allow the voters of the City of Lorain to vote on the continuation of the casino after the expiration of the pilot period.
3. If after three years the Lorain pilot project is determined by the general assembly to be a success, then the state shall be divided into seven districts. A license to establish a single casino facility in each district may be issued if approved by the voters both in the district and in the political subdivision in which the facility would be located.

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 3
(Proposed by Initiative Petition)

To adopt Section 5 of Article XVII of the Constitution of the State of Ohio in order to establish revised limits on political contributions, establish prohibitions regarding political contributions and provide for revised public disclosure requirements of campaign contributions and expenditures.

Yes-955,334 No-1,927,502 (Failed)

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 4
(Proposed by Initiative Petition)

To amend Article XI of the Constitution of the State of Ohio to provide for the creation of a state redistricting commission with responsibility for creating legislative districts.

Yes-871,898 No-2,005,952 (Failed)

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 5
(Proposed by Initiative Petition)

To adopt Section 4 of Article XVII of the Constitution of the State of Ohio to create a newly appointed board to administer elections.

Yes-854,918 No--2,001,983 (Failed)

NOVEMBER 7, 2006

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 2
(Proposed by Initiative Petition - Minimum Wage)

To adopt Section 34a of Article II of the Constitution of the State of Ohio to raise the state minimum wage rate.

Yes-2,205,850 (Passed) No-1,687,996

PROPOSED CONSTITUTIONAL AMENDMENT - ISSUE NO. 3
(Proposed by Initiative Petition - Ohio Learn & Earn)

To adopt Section 12 of Article XV of the Constitution of the State of Ohio to provide moneys for scholarships/education funding by permitting limited gaming.

Yes-1,753,452 No-2,286,840 (Failed)

PROPOSED CONSTITUTIONAL AMENDMENT - ISSUE NO. 4
(Proposed by Initiative Petition - Smoke Less)

To adopt Section 12 of Article XV of the Constitution of the State of Ohio to provide a smoking ban in enclosed areas with certain exceptions.

Yes-1,450,164 No-2,590,448 (Failed)

PROPOSED LAW BY INITIATIVE PETITION (SMOKE FREE) - ISSUE NO. 5

To enact Chapter 3794. of the Ohio Revised Code to restrict smoking in places of employment and most places open to the public.

Yes-2,370,314 (Passed) No-1,679,833

NOVEMBER 4, 2008

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 1
(Proposed by Resolution of the General Assembly of Ohio)

To provide for earlier filing deadlines for statewide ballot issues.

Yes - 3,397,389 (Passed) No- 1,550,365

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 2
(Proposed by Resolution of the General Assembly of Ohio)

To authorize the state to issue bonds to continue the Clear Ohio program for environmental revitalization and conservation.

Yes - 3,574,294 (Passed) No - 1,585,410

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 3
(Proposed by Resolution of the General Assembly of Ohio)

To protect private property rights in ground water, lakes and other watercourses.

Yes - 3,631,380 (Passed) No - 1,415,933

REFERENDUM - Issue No. 5

Legislation making changes to check cashing lending sometimes known as "payday lending" fees, interest rates and practices.

Yes - 3,396,968 (Passed) No - 1,943,721

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 6
Proposed by initiative petition for a casino near Wilmington in Southwest Ohio and distribute to all Ohio counties a tax on the casino.

Yes - 2,092,074 No - 3,466,574 (Failed)

NOVEMBER 3, 2009

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 1
(Proposed by Joint Resolution of the General Assembly of Ohio)

To authorize the state to issue bonds to provide for compensation to veterans of the Persian Gulf, Afghanistan, and Iraq conflicts.

Yes - 2,277,521 (Passed) No- 876,520

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 2
(Proposed by Joint Resolution of the General Assembly of Ohio)

To create the Ohio Livestock Care Standards Board to establish and implement standards of care for livestock and poultry.

Yes - 2,020,851 (Passed) No- 1,148,538

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 3
(Proposed by Initiative Petition)

To allow for one casino each in Cincinnati, Cleveland, Columbus, and Toledo and distribute to all Ohio counties a tax on the casinos.

Yes - 1,713,288 (Passed) No- 1,519,636

May 4, 2010

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 1
(Proposed by Joint Resolution of the General Assembly of Ohio)

To extend the Ohio Third Frontier Program by authorizing the issuance of additional general obligation bonds to promote economic growth.

Yes - 1,050,265 (Passed) No- 650,988

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 2
(Proposed by Joint Resolution of the General Assembly of Ohio)

To change the location of the Columbus casino facility authorized by previous statewide vote.

Yes - 1,154,504 (Passed) No- 534,013

November 8, 2011

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 1
(Proposed by Joint Resolution of the General Assembly)

To increase the maximum age at which a person may be elected or appointed judge, to eliminate the authority of the General Assembly to establish courts of conciliation, and to eliminate the authority of the governor to appoint a Supreme Court Commission

Yes - 1,273,536 No- 2,080,207 (Failed)

REFERENDUM - Issue No. 2
(Law passed by the general assembly submitted to the people by referendum petition)

Referendum on new law relative to government union contracts and other government employment contracts and policies

Yes -1,373,724 No- 2,202,404 (Failed)

PROPOSED CONSTITUTIONAL AMENDMENT - Issue No. 3
(Proposed by Initiative Petition)

To preserve the freedom of Ohioans to choose their health care and health care coverage

Yes - 2,268,470 (Passed) No- 1,190,385

COMPILED BY:

Jon Husted
SECRETARY OF STATESUMMARY OF ACTION ON CONSTITUTIONAL AMENDMENTS
1913 - 2014
(updated 6/11/2014)

YEAR	SUBMITTED BY INITIATIVE PETITION		SUBMITTED BY GENERAL ASSEMBLY		YEAR	SUBMITTED BY INITIATIVE PETITION		SUBMITTED BY GENERAL ASSEMBLY	
	ADOPTED	REJECTED	ADOPTED	REJECTED		ADOPTED	REJECTED	ADOPTED	REJECTED
1913		1	1	3	1963			1	
1914	1	3			1964			1	
1915		3		1	1965			4	2
1916					1966				
1917		1			1967			1	2
1918	3		1		1968			4	1
1919		2		1	1969			1	1
1920					1970			3	
1921			1	2	1971			1	
1922		3			1972		1		
1923			2	1	1973			6	5
1924					1974			4	2
1925				3	1975		4	3	2
1926		1		1	1976		4	8	3
1927					1977	1	1		2
1928		1			1978			3	
1929			1		1979				
1930			1		1980			1	4
1931				1	1981		2		
1932					1982		1	1	1
1933	2		1		1983		3		
1934		2			1984				
1935					1985			1	
1936	1		1		1986				
1937					1987		1	2	
1938		1			1988				
1939		2		1	1989			1	
1940					1990		1	2	
1941					1991				
1942			1		1992	3	1		1
1943					1993			1	
1944			2		1994	1		3	
1945					1995			2	
1946					1996		1		
1947	1		3		1997			1	
1948					1998		1		2
1949	1			1	1999			1	
1950					2000			1	
1951			1		2001				
1952					2002		1		
1953			9		2003				1
1954			1	1	2004	1			
1955			1	2	2005	0	4	1	0
1956			2		2006	2	2		
1957			2	1	2007				
1958		1		1	2008		1	3	
1959			2		2009	1	0	2	0
1960					2010	0	0	2	0
1961			4		2011	1	1	0	1
1962		1			2012		1		1
					2013				
					2014			1	
					GRAND TOTAL	19	53	103	51

What Is a Referendum?

A referendum is a process to stay a law recently enacted by the General Assembly until the law itself can be submitted to the voters for approval or rejection at a general election.

Matters not subject to referendum are (1) laws providing for tax levies, (2) appropriations for the current expenses of the state government and state institutions, and (3) emergency laws necessary for the immediate preservation of the public peace, health or safety (Ohio Constitution Article II, Section 1d).

Please note: This procedural outline is not legal advice and should not be relied upon as the sole source of information. Petitioners must comply with all applicable sections of the Ohio Constitution and the Ohio Revised Code.

* Petitioners are encouraged to consult legal counsel.

Requirement	Action	Authority
Create Petitioners' Committee	Petitioners must designate a committee of three to five individuals to represent them in all matters relating to the petition.	Ohio Revised Code Section: <u>3519.02</u>
File Initial Petition With Ohio Attorney General and Secretary of State	<ol style="list-style-type: none"> 1. An initial written petition, <u>signed by 1,000 Ohio registered voters</u>, must be submitted to the Secretary of State with the full text and summary of the law or section of the law to be referred. 2. Within 10 business days of receiving the petition, the Secretary of State must verify the number of valid signatures and compare the full text of the law or section of the law with the law on file with the office. If the petition text is correct, the Secretary of State must certify. 3. On the same day or within one business day before or after the petition is filed with the Secretary of State, a copy of the petition with the full text and summary of the law or section of the law must be filed with the Attorney General. 4. Within 10 business days of receiving the petition, the Attorney General will certify if he or she believes the summary to be a <u>fair and truthful statement</u> of the law or section of law to be referred. If the Attorney General certifies the summary, petitioners can move on to the next step. If the Attorney General does not certify the summary, petitioners may start this process over. 	Ohio Constitution: <u>Article II, Section 1c</u> Ohio Revised Code Sections: <u>3501.05</u> ; <u>3519.01</u> ; <u>3519.05</u> ; <u>3505.062</u>
Create Petitions and	<ol style="list-style-type: none"> 1. In order to begin gathering signatures, the petitioners must create a petition. It may be made up of part- 	Ohio Constitution:

Gather Signatures	<p>petitions, but all separate part-petitions must be submitted at one time as one instrument.</p> <ol style="list-style-type: none"> Each part-petition must have the following heading: <i>“REFERENDUM PETITION To be submitted to the electors for their approval or rejection.”</i> This heading must be followed by the title, certified summary, and full text of the law or section of law to be referred. Any person receiving compensation for supervising, managing, or otherwise organizing any effort to obtain signatures for a statewide petition must file a <u>Form 15</u> with the office of the Secretary of State before circulating petitions. Any person compensating a person for supervising, managing, or otherwise organizing any effort to obtain signatures for a statewide referendum petition must also file a <u>Form 15</u> with the office of the Secretary of State before any signatures are obtained. 	<p><u>Article II, Section 1g</u></p> <p>Ohio Revised Code Sections: <u>3501.38</u>; <u>3501.381</u>; <u>3501.382</u>; <u>3503.06</u>; <u>3519.01</u>; <u>3519.05</u></p>
Signature Requirements	<ol style="list-style-type: none"> The total number of signatures on the petitions must equal at least 6 percent of the <u>total vote cast for the office of governor at the last gubernatorial election</u>. The Secretary of State may not accept any petition for filing which does not purport to contain the minimum number of required signatures. The signatures must have been obtained from at least 44 of the 88 counties in Ohio. From each of these 44 counties, there must be signatures equal to at least 3 percent of the <u>total vote cast for the office of governor in that county at the last gubernatorial election</u>. Each petition signer must be a qualified elector of the state of Ohio and each petition must contain signatures of electors from only one county. If a petition contains signatures from electors in more than one county, the Secretary of State will determine which county has the majority of signatures and only the signatures from that county will be counted. Each part-petition circulated in a county must be marked with the name of the county in which it was circulated, numbered sequentially, and sorted according to county. When filing the petition with the Secretary of State, the committee must file an electronic copy of the petition and verification that the electronic copy is a true representation of the original, a summary of the number of part-petitions per county and the number of signatures on each part-petition, and an index of the electronic copy of the petition. 	<p>Ohio Constitution: <u>Article II, Section 1c</u>; <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Sections: <u>3519.10</u>; <u>3519.14</u>; <u>3519.16</u>; <u>3501.38</u></p>
Filing Deadline and Filing Fee	<ol style="list-style-type: none"> The petitions must be filed with the Secretary of State within 90 days after the law or section of law to be referred has been filed with the Secretary of State by the 	<p>Ohio Constitution: <u>Article II,</u></p>

	<p>Governor.</p> <ol style="list-style-type: none"> Any referendum petition filed after 125 days before the next election will be placed on the ballot at the regular or general election that occurs over a year later. A \$25 filing fee must be paid at the time of filing. Petitions may be withdrawn if written notice is given to the Secretary of State by a majority of the committee members named to represent the petitioners. Notice must be given more than 70 business days before the referendum is to appear on the ballot, and once withdrawn, it may not be resubmitted. 	<p><u>Section 1c;</u> <u>Article II,</u> <u>Section 1g</u></p> <p>Ohio Revised Code Sections: <u>3501.05;</u> <u>3513.10;</u> <u>3519.08</u></p>
Ohio General Assembly	<ol style="list-style-type: none"> If the petition is found to be valid, the law or section of law will not go into effect until and unless it is approved by a majority of the voters at the first regular or general election which occurs at least 125 days after the petition is filed. 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1c;</u> <u>Article II,</u> <u>Section 1g</u></p>
Signature Verification and Supplemental Signatures	<ol style="list-style-type: none"> The Secretary of State must determine the sufficiency of the signatures not later than 105 days before the election. If the signatures are determined to be insufficient, the petitioners are permitted 10 additional days to collect and file additional signatures. No additional signatures may be collected until the Secretary of State notifies the chairperson of the committee that the petition contains insufficient valid signatures and provides the committee with a unique, supplemental form. All additional signatures must be collected on the supplemental form. The Secretary of State will determine the sufficiency of additional signatures not later than 65 days before the election. 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.16</u></p>
Signature or Petition Challenges	<ol style="list-style-type: none"> The Ohio Supreme Court has original, exclusive jurisdiction over all challenges made to petitions or individual signatures. Any challenge to <i>original</i> petitions or signatures must be filed not later than 95 days before the election. The Supreme Court must rule on these challenges not later than 85 days before the election. If the Court does not rule prior to the 85th day before the election, the original signatures will be deemed sufficient. Any challenge to <i>additional</i> signatures must be filed not later than 55 days before the election. The Supreme Court must rule on any challenges not later than 45 days before the election. If the Court does not rule prior to the 45th day before the election, those additional signatures will be deemed sufficient and the referendum 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.16</u></p>

	<p>with appear on the ballot.</p> <p>4. If the Court determines that the petitioners do not have enough signatures the petition, the referendum will not move forward and will not be placed on the ballot.</p>	
Ballot Language	<ol style="list-style-type: none"> 1. The Ohio Secretary of State must pass the referendum on to the Ballot Board. 2. The Ohio Ballot Board must prescribe the ballot language for the referendum and certify it to the Secretary of State not later than 75 days before the election. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3505.062</u></p>
Ballot Arguments	<ol style="list-style-type: none"> 1. The committee named on the petition may prepare and file an argument and/or explanation in favor of the proposed referendum not later than the 80th day before the election. The General Assembly, or the Governor if the General Assembly is not in session, must name persons to prepare the argument and/or explanation in favor of the law to be referred. All arguments and/or explanations must be 300 words or less and must be filed with the Secretary of State not later than 80 days before the election. 2. If the committee or the persons named by the General Assembly or Governor fail to prepare or timely file the argument and/or explanation, the Secretary of State must notify the Ohio Ballot Board, which must prepare or designate a group to prepare the arguments and/or explanation. The argument and/or explanation must be filed with the Secretary of State not later than 75 days before the election. 3. The law to be referred together with the arguments and/or explanations must be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.03</u></p>
Effective Date	The law to be referred does not go into effect until it has been submitted to and approved by the voters.	<p>Ohio Constitution: <u>Article II, Section 1c</u></p>

What Is a Citizen - Initiated Constitutional Amendment?

If a citizen feels that an issue is not addressed properly (or at all) in the Ohio Constitution, he or she can follow the procedures outlined in the Ohio Constitution and Revised Code (below) to submit a proposed constitutional amendment to the people of Ohio for a statewide vote.

Please note: This procedural outline is not legal advice and should not be relied upon as the sole source of information. Petitioners must comply with all applicable sections of the Ohio Constitution and the Ohio Revised Code.

Petitioners are encouraged to consult legal counsel.

Requirement	Action	Authority
Create Petitioners' Committee	Petitioners must designate a committee of three to five individuals to represent them in all matters relating to the petition.	Ohio Revised Code Section: <u>3519.02</u>
File Initial Petition With Ohio Attorney General	<ol style="list-style-type: none"> 1. An initial written petition, <u>signed by 1,000 Ohio qualified electors</u>, must be submitted to the Attorney General with the full text and summary of the proposed constitutional amendment. 2. Once the petition is received, the Attorney General will certify if he or she believes the summary to be a <i>fair and truthful statement</i> of the proposed constitutional amendment. 3. Once the statement on the petition is certified, the Attorney General will forward the petition to the Ohio Ballot Board which will evaluate the petition to ensure that it contains <u>only one constitutional amendment</u>. The Ballot Board has <u>10 days</u> from the date it receives the petition from the Attorney General to complete this task. 4. After the Ballot Board has certified the petition, a verified copy of the proposed constitutional amendment, together with its summary and the Attorney General's certification must then be filed with the Secretary of State by the Attorney General. The petitioners may then begin to collect signatures for their initiated constitutional amendment. 	Ohio Revised Code Sections: <u>3501.05</u> ; <u>3505.062</u> ; <u>3519.01</u> ; <u>3519.05</u>
Create Petitions and Gather Signatures	<ol style="list-style-type: none"> 1. In order to begin gathering signatures, the petitioners must create a petition. Each petition must have a copy of the title and full text of the proposed constitutional amendment and must have the following statement printed at the top: "<i>INITIATIVE PETITION Amendment to the Constitution Proposed by Initiative Petition to be Submitted</i>" 	Ohio Constitution: <u>Article II, Section 1g</u> Ohio Revised Code Sections:

	<p><i>Directly to the Electors.</i>”</p> <ol style="list-style-type: none"> All signatures must be submitted as one document and at one time. Any person receiving compensation for supervising, managing, or otherwise organizing any effort to obtain signatures for a statewide petition must file a <u>Form 15</u> with the office of the Secretary of State before circulating petitions. Any person compensating a person for supervising, managing, or otherwise organizing any effort to obtain signatures for a statewide petition must also file a <u>Form 15</u> with the office of the Secretary of State before any signatures are obtained. 	<p><u>3501.38;</u> <u>3501.381;</u> <u>3501.382;</u> <u>3503.06;</u> <u>3519.05;3519.01</u></p>
Signature Requirements	<ol style="list-style-type: none"> The total number of signatures on the petition must equal at least 10 percent of the <u>total vote cast for the office of governor at the last gubernatorial election</u>. The Secretary of State may not accept any petition for filing which does not purport to contain the minimum number of required signatures. The signatures must have been obtained from at least 44 of the 88 counties in Ohio. From each of these 44 counties, there must be signatures equal to at least 5 percent of the <u>total vote cast for the office of governor in that county at the last gubernatorial election</u>. Each petition signer must be a qualified elector of the state of Ohio and each petition must contain signatures of electors from only one county. If a petition contains signatures from electors in more than one county, the Secretary of State will determine which county has the majority of signatures and only the signatures from that county will be counted. Each part-petition circulated in a county must be marked with the name of the county in which it was circulated, numbered sequentially, and sorted according to county. When filing the petition with the Secretary of State, the committee must file an electronic copy of the petition and verification that the electronic copy is a true representation of the original, a summary of the number of part-petitions per county and the number of signatures on each part-petition, and an index of the electronic copy of the petition. 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1a;</u> <u>Article II,</u> <u>Section 1g</u></p> <p>Ohio Revised Code Sections: <u>3519.10;</u> <u>3519.14;</u> <u>3519.16;</u> <u>3501.38</u></p>
Filing Deadline and Filing Fee	<ol style="list-style-type: none"> Once the required number of signatures is collected, all petitions must be filed with the Secretary of State's office at the same time, not later than 125 days prior to the general election at which the 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1a;</u></p>

	<p>proposed constitutional amendment is to be on the ballot.</p> <ol style="list-style-type: none"> 2. A \$25 filing fee must be paid at the time of filing. 3. Petitions may be withdrawn if written notice is given to the Secretary of State by a majority of the committee members named to represent the petitioners. Notice must be given more than 70 business days before the proposed amendment is to appear on the ballot, and once withdrawn, it may not be resubmitted. 	<p><u>Article II, Section 1g</u></p> <p>Ohio Revised Code Sections: <u>3501.05</u>; <u>3513.10</u>; <u>3519.08</u></p>
Signature Verification and Supplemental Signatures	<ol style="list-style-type: none"> 1. The Secretary of State must determine the sufficiency of the signatures not later than 105 days before the election. 2. If any petitions or signatures are determined to be insufficient, the petitioners are permitted 10 additional days to collect and file additional signatures. 3. No additional signatures may be collected until the Secretary of State notifies the chairperson of the committee that the petition contains insufficient valid signatures and provides the committee with a unique, supplemental form. All additional signatures must be collected on the supplemental form. 4. The Secretary of State will determine the validity of additional signatures not later than 65 days before the election. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.16</u></p>
Signature or Petition Challenges	<ol style="list-style-type: none"> 1. The Ohio Supreme Court has original, exclusive jurisdiction over any and all challenges made to petitions or individual signatures. 2. Any challenge to <i>original</i> signatures on petitions must be filed not later than 95 days before the election. The Supreme Court will rule on these challenges not later than 85 days before the election. If the Court does not rule prior to the 85th day before the election, the original signatures will be deemed sufficient. 3. Any challenge to <i>additional or supplemental</i> signatures must be filed not later than 55 days before the election. The Supreme Court will rule on any challenges not later than 45 days before the election. If the Court does not rule prior to the 45th day before the election, those additional signatures will be deemed sufficient and the initiated constitutional amendment will then go to the Ohio Ballot Board which will meet to determine the ballot language and arguments for or against the amendment. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.16</u></p>

Ballot Language	<ol style="list-style-type: none"> 1. The Ohio Secretary of State must pass the proposed constitutional amendment on to the Ballot Board. 2. The Ohio Ballot Board must prescribe the ballot language for the proposed amendment and certify it to the Secretary of State not later than 75 days before the election. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3505.062</u></p>
Ballot Arguments	<ol style="list-style-type: none"> 1. Members of the petitioners' committee may prepare and file an argument and/or explanation in favor of the proposed constitutional amendment. The General Assembly, or the Governor if the General Assembly is not in session, must name persons to prepare the argument and/or explanation against any proposed constitutional amendment. All arguments and/or explanations must be 300 words or less and must be filed with the Secretary of State not later than 80 days before the election. 2. If the petitioners' committee or the individuals named by the General Assembly or Governor fail to prepare or timely file and argument and/or explanation, the Secretary of State must notify the Ohio Ballot Board, which must prepare the argument and/or explanation or designate a group to do so. The argument and/or explanation must be filed with the Secretary of State not later than 75 days before the election. 3. The proposed constitutional amendment together with the arguments and/or explanations must be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. 	<p>Ohio Constitution: <u>Article II, Section 1g;</u> <u>Article XVI, Section 1</u></p> <p>Ohio Revised Code Section: <u>3519.03</u></p>
Effective Date	Any amendment approved by the majority of voters will become effective 30 days after the election.	Ohio Constitution: <u>Article II, Section 1b</u>

What Is a Constitutional Amendment Initiated by the General Assembly?

The members of the General Assembly represent Ohio's voters in the legislative branch. They have the ability to pass a joint resolution which will appear as an issue on the general election ballot. Electors then have the option of voting for or against the issue. If the issue receives more than 50 percent of the vote, the issue will become a constitutional amendment.

Petitioners are encouraged to consult legal counsel.

Requirement	Action	Authority
joint resolution	<ol style="list-style-type: none"> 1. Either branch of the General Assembly may propose amendments to the Ohio Constitution. Customarily, constitutional amendments are proposed by joint resolution. 2. A three-fifths vote in favor of the joint resolution is required for its passage. 3. The joint resolution must then be filed with the Secretary of State at least 90 days before the date of the election at which it is to be submitted to the electors, for their approval or rejection. 	Ohio Constitution: <u>Article XVI, Section 1</u>
Ballot Language	<ol style="list-style-type: none"> 1. The Secretary of State must pass the joint resolution on to the Ohio Ballot Board. 2. The Ohio Ballot Board must prescribe the ballot language and explanation for such proposed constitutional amendments and certify them to the Secretary of State not later than 75 days before the election. 	Ohio Constitution: <u>Article XVI, Section 1</u> Ohio Revised Code Section: <u>3505.062</u>
Constitutional Amendment Challenges	<ol style="list-style-type: none"> 1. The Ohio Supreme Court has original, exclusive jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors. 2. Cases challenging the ballot language, the explanation, or the actions or procedures of the General Assembly in adopting and submitting a constitutional amendment must be filed not later than 64 days before the election. 3. Unless it misleads, deceives or defrauds the voters, the ballot language must not be held invalid. 	Ohio Constitution: <u>Article XVI, Section 1</u>
Ballot Arguments	<ol style="list-style-type: none"> 1. The General Assembly may appoint members who voted in support of the proposed constitutional amendment to prepare arguments in favor of it, and the 	Ohio Constitution: <u>Article XVI,</u>

	<p>General Assembly may appoint members who voted in opposition to the proposed constitutional amendment to prepare arguments against it. All arguments must be 300 words or less and must be filed with the Secretary of State not later than 80 days before the election.</p> <p>2. If members of the General Assembly fail to prepare or timely file arguments, the Secretary of State must notify the Ohio Ballot Board, which must prepare the arguments or designate a group to do so. The arguments must be filed with the Secretary of State not later than 75 days before the election.</p> <p>3. The proposed amendments, the ballot language, the explanations, and the arguments must be published once a week for three consecutive weeks preceding such election, in at least one newspaper of general circulation in each county of the state where a newspaper is published</p>	<p><u>Section 1</u></p> <p>Ohio Revised Code Section: <u>3505.063</u></p>
Effective Date	If a majority of voters approves the amendment, it shall become part of the constitution.	Ohio Constitution: <u>Article XVI, Section 1</u>

What Is an Initiated Statute?

If a citizen feels that an issue is not addressed properly (or at all) in the Ohio Revised Code, he or she can follow the procedures outlined in the Ohio Constitution and Revised Code (below) to submit a proposed law (statute) to the people of Ohio for a statewide vote.

Please note: This procedural outline is not legal advice and should not be relied upon as the sole source of information. Petitioners must comply with all applicable sections of the Ohio Constitution and the Ohio Revised Code.

Petitioners are encouraged to consult legal counsel.

Requirement	Action	Authority
Create Petitioners' Committee	Petitioners must designate a committee of three to five individuals to represent them in all matters relating to the petition.	Ohio Revised Code Section: 3519.02
File Initial Petition With Ohio Attorney General and Secretary of State	<ol style="list-style-type: none"> 1. An initial written petition, <u>signed by 1,000 Ohio registered voters</u>, must be submitted to the Attorney General with the full text and summary of the proposed law. 2. Once the petition is received, the Attorney General will certify if he or she believes the summary to be a <i>fair and truthful statement</i> of the proposed law. 3. Once the statement on the petition is certified, the Attorney General will forward the petition to the Ohio Ballot Board which will evaluate the petition to ensure that it contains <u>only one proposed law</u>. The Ballot Board has <u>10 days</u> from the date it receives the petition from the Attorney General to complete this task. 4. After the Ballot Board has certified the petition, a verified copy of the proposed law, together with its summary and the Attorney General's certification must then be filed with the Secretary of State by the Attorney General. The petitioners may then begin to collect signatures for their initiated statute. 	Ohio Constitution: Article II, Section 1c Ohio Revised Code Sections: 3501.05 ; 3505.062 ; 3519.01 ; 3519.05
Create Petitions and Gather Signatures	<ol style="list-style-type: none"> 1. In order to begin gathering signatures, the petitioners must create a petition. Each petition must have a copy of the title and full text of the proposed law and must have the following statement printed at the top: <i>"INITIATED PETITION Law proposed by initiative petition first to be submitted to the General Assembly."</i> 2. All signatures must be submitted as one document and at one time. 3. Any person receiving compensation for supervising, 	Ohio Constitution: Article II, Section 1g Ohio Revised Code Sections:

	<p>managing, or otherwise organizing any effort to obtain signatures for a statewide petition must file a <u>Form 15</u> with the office of the Secretary of State before circulating petitions. Any person compensating a person for supervising, managing, or otherwise organizing any effort to obtain signatures for a statewide petition must also file a <u>Form 15</u> with the office of the Secretary of State before any signatures are obtained.</p>	<p><u>3501.38</u>; <u>3501.381</u>; <u>3501.382</u>; <u>3503.06</u>; <u>3519.05</u>; <u>3519.01</u></p>
Signature Requirements	<ol style="list-style-type: none"> 1. The total number of signatures on the petition must equal at least 3 percent of the <u>total vote cast for the office of governor at the last gubernatorial election</u>. The Secretary of State may not accept any petition for filing which does not purport to contain the minimum number of required signatures. 2. The signatures must have been obtained from at least 44 of the 88 counties in Ohio. From each of these 44 counties, there must be signatures equal to at least 1.5 percent of the <u>total vote cast for the office of governor in that county at the last gubernatorial election</u>. 3. Each petition-signer must be a qualified elector of the state of Ohio and each petition must contain signatures of electors from only one county. If a petition contains signatures from electors in more than one county, the Secretary of State will determine which county has the majority of signatures and only the signatures from that county will be counted. 4. Each part-petition circulated in a county must be marked with the name of the county in which it was circulated, numbered sequentially, and sorted according to county. 5. When filing the petition with the Secretary of State, the committee must file an electronic copy of the petition and verification that the electronic copy is a true representation of the original, a summary of the number of part-petitions per county and the number of signatures on each part-petition, and an index of the electronic copy of the petition. 	<p>Ohio Constitution: <u>Article II, Section 1b</u>; <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.10</u>; <u>3519.14</u>; <u>3519.16</u>; <u>3501.38</u></p>
Additional Signatures	<ol style="list-style-type: none"> 1. If any petitions or signatures are determined to be insufficient, the petitioners are permitted 10 additional days to collect and file additional signatures. 2. No additional signatures may be collected until the Secretary of State notifies the chairperson of the committee that the petition contains insufficient valid signatures and provides the committee with the unique, supplemental form. All additional signatures must be collected on the supplemental form. 	<p>Ohio Constitution: <u>Article II, Section 1b</u>; <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section:</p>

		<u>3519.16</u>
Filing Deadline and Filing Fee	<ol style="list-style-type: none"> 1. The petition must be filed with the Secretary of State not less than 10 days prior to the commencement of any session of the Ohio General Assembly. Legislative sessions begin on the first Monday in January. 2. A \$25 filing fee must be paid at the time of filing. 3. Petitions may be withdrawn if written notice is given to the Secretary of State by a majority of the committee members named to represent the petitioners. Notice must be given more than 70 business days before the initiative is to appear on the ballot, and once withdrawn, it may not be resubmitted. 4. Upon receipt of the petition, the Secretary of State will send the proposal for a new law to the General Assembly as soon as it convenes. 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1b</u></p> <p>Ohio Revised Code Sections: <u>3501.05;</u> <u>3513.10;</u> <u>3519.08</u></p>
Ohio General Assembly	<ol style="list-style-type: none"> 1. The Ohio General Assembly has <i>four months</i> to act on the proposed law. 2. If the General Assembly fails to pass the proposed law, passes it in amended form, or takes no action at all within four months from the date it was received by the General Assembly, supplemental petitions may be circulated by the petitioners demanding that the proposed law be submitted to Ohio voters at the next general election. 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1b</u></p>
Supplemental Petition and Supplemental Signatures	<ol style="list-style-type: none"> 1. The supplemental petition must contain signatures of Ohio voters that is equal to 3 percent of the <u>most recent vote for governor</u> and must be obtained from at least 44 of the 88 Ohio counties. From each of these 44 counties there must be signatures equal to at least 1.5 percent of the <u>total vote cast for the office of governor in that county at the last gubernatorial election.</u> 2. The petition must be signed and filed with the Secretary of State within 90 days after the General Assembly fails to enact the proposed law in original form, passes it in amended form, or fails to take any action within four months from the time it was received by the General Assembly. The petition must also be filed not later than 125 days before the election at which the initiative is to be placed on the ballot. 3. The supplemental petition may be worded in its original form or may contain amended language included by the Ohio General Assembly. If any petitions or signatures are determined to be insufficient, the petitioners are permitted 10 additional days to collect and file additional signatures. 4. No additional signatures may be collected until the Secretary of State notifies the chairperson of the 	<p>Ohio Constitution: <u>Article II,</u> <u>Section 1b</u></p> <p>Ohio Revised Code Section: <u>3519.16</u></p>

	<p>committee that the petition contains insufficient valid signatures and provides the committee with a unique, supplemental form. All additional signatures must be collected on the supplemental form.</p> <p>5. The Secretary of State will determine the validity of these additional signatures not later than 65 days before the election.</p>	
Signature or Petition Challenges	<ol style="list-style-type: none"> 1. The Ohio Supreme Court has original, exclusive jurisdiction over any and all challenges made to petitions or individual signatures. 2. Any challenge to <i>original</i> signatures on petitions must be filed not later than 95 days before the election. The Supreme Court will rule on these challenges not later than 85 days before the election. If the Court does not rule prior to the 85th day before the election, the original signatures will be deemed sufficient. 3. Any challenge to <i>additional or supplemental</i> signatures must be filed not later than 55 days before the election. The Supreme Court will rule on any challenges not later than 45 days before the election. If the Court does not rule prior to the 45th day before the election, those additional signatures will be deemed sufficient. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3519.16</u></p>
Ballot Language	<ol style="list-style-type: none"> 1. Once the Secretary of State determines the sufficiency of the supplemental petition, the Secretary of State must pass the initiative on to the Ballot Board. 2. The Ohio Ballot Board must prescribe the ballot language for the proposed law and certify it to the Secretary of State not later than 75 days before the election. 	<p>Ohio Constitution: <u>Article II, Section 1g</u></p> <p>Ohio Revised Code Section: <u>3505.062</u></p>
Ballot Arguments	<ol style="list-style-type: none"> 1. Members of the petitioners' committee may prepare and file an argument and/or explanation in favor of the proposed law. The General Assembly, or the Governor if the General Assembly is not in session, must name persons to prepare the argument and/or explanation against the proposed law. All arguments and/or explanations must be 300 words or less and must be filed with the Secretary of State not later than 80 days before the election. 2. If the petitioners' committee or persons named by the General Assembly or Governor fail to prepare or timely file the argument and/or explanation, the Secretary of State must notify the Ohio Ballot Board, which must prepare the argument and/or explanation or designate a group to do so. The argument and/or explanation must 	<p>Ohio Constitution: <u>Article II, Section 1g; Article XVI, Section 1</u></p> <p>Ohio Revised Code Section: <u>3519.03</u></p>

	<p>be filed with the Secretary of State not later than 75 days before the election.</p> <p>3. The proposed law together with the arguments and/or explanations must be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published.</p>	
Effective Date	Any law approved by the majority of voters will become effective 30 days after the election.	Ohio Constitution: <u>Article II</u> , <u>Section 1b</u>

Initiative and Referendum in the 21st Century

Final Report and Recommendations
of the NCSL I&R Task Force



NATIONAL CONFERENCE OF STATE LEGISLATURES

The Forum for America's Ideas

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July 2002



The National Conference of State Legislatures is the bipartisan organization that serves the legislators and staffs of the states, commonwealths and territories.

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- To ensure state legislatures a strong, cohesive voice in the federal system.

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Printed on recycled paper

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ISBN 1-58024-237-5

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PREFACE AND ACKNOWLEDGMENTS

The NCSL Initiative and Referendum Task Force assumed a difficult task in addressing such a complicated and highly controversial issue. Thanks to the committed leadership of Senator DiAnna Schimek, the task force was able to quickly focus on the most important issues and eventually come to consensus on a set of recommendations. NCSL is indebted to each one of the task force members who contributed their expertise for this project.

The task force was a diverse, bipartisan group representing seven of the 24 initiative states and the District of Columbia. Its makeup was unique in that it also included industry members. The following legislators, legislative staff, and industry representatives served on the task force:

Honorable DiAnna Schimek, State Senator, Nebraska, Task Force Chair
Chris Badgley, Vice President of State Government Affairs, PhRMA, Washington, D.C.
Jerry Barnett, Ph.D., Principal, Thomas-Huntington Ltd., Missouri
Honorable Jim Costa, State Senator, California
Sharon Eubanks, Senior Attorney for Administration, Office of Legislative Legal Services, Colorado
Honorable Marilyn Jarrett, State Senator, Arizona
Patrick Kelly, Director of State Government Relations, Biotechnology Industry Organization, Washington, D.C.
Tracy Mihos, Manager of I&R and Corporate Issues, Philip Morris Companies, Washington, D.C.
Frank H. Plescia, Senior Director of U.S. State Government Affairs, Monsanto Company, Missouri
Honorable Lane Shetterly, House Speaker Pro Tem, Oregon
Michael Stewart, Senior Research Analyst, Legislative Counsel Bureau, Nevada

The task force was fortunate to gain the insight of many individuals who took the time to appear before the group and share their expertise. The task force is grateful to the following witnesses who contributed their time:

David Broder, *Washington Post*, Washington, D.C.
Lois Court, Save Our Constitution, Colorado
Neal Erickson, Office of the Secretary of State, Nebraska
Wayne Pacelle, Humane Society of the United States, Washington, D.C.
John Perez, Speaker's Commission on the California Initiative Process, California
Honorable Joe Pickens, State Representative, Florida

Larry Sokol, Speaker's Commission on the California Initiative Process, California
M. Dane Waters, Initiative and Referendum Institute, Washington, D.C.
Joseph F. Zimmerman, State University of New York-Albany, New York

Many others helped in the creation of this report, including legislative staff and election officials in initiative states who shared valuable data and took the time to review and confirm information about their states' laws and procedures. Their assistance is greatly appreciated; it contributed to the quality and accuracy of the information in this report.

A number of NCSL staff supported the task force in its work, including Jennie Drage Bowser and Kate Rooney in NCSL's Denver office. Leann Stelzer of the NCSL publications department helped edit and prepare the report for publication, and Scott Liddell of NCSL formatted the report.

EXECUTIVE SUMMARY

On December 7, 2001, the National Conference of State Legislatures assembled a task force to review the growing use of initiatives and referendums around the country and to examine their effect on representative democracy at the state level.

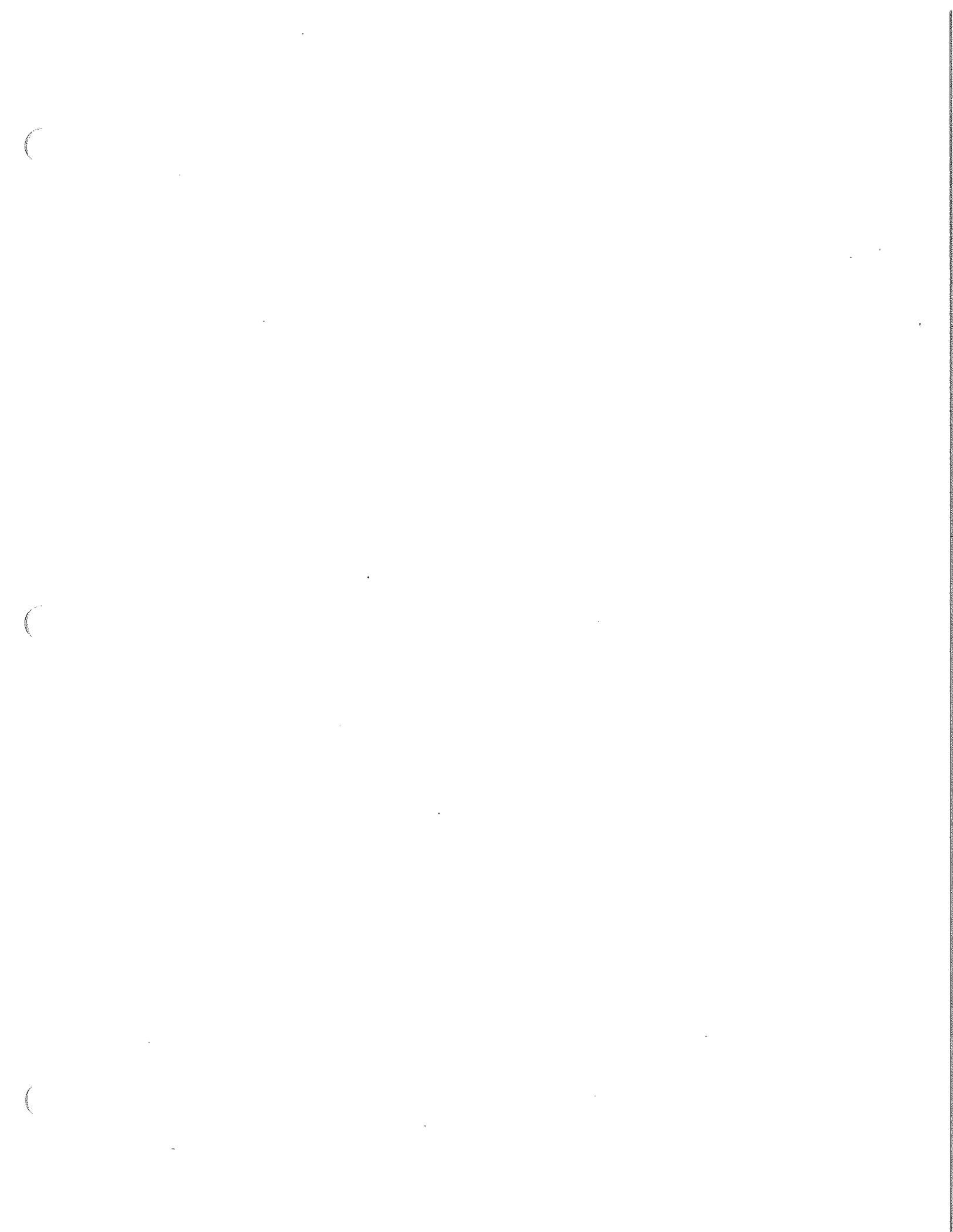
The Initiative and Referendum Task Force found that opportunities for abuse of the process outweigh its advantages and does not recommend that states adopt the initiative process if they currently do not have one.

The task force also developed recommendations that would enable initiative states to make their processes more representative. For states that are intent upon adopting an initiative process, the task force offers a set of guidelines to enhance the process and to avoid many of the pitfalls currently experienced by the initiative states. The task force urges such states to consider giving preference to a process that encourages citizen participation without enacting specific constitutional or statutory language—specifically, the advisory initiative or the general policy initiative.

The 34 recommendations contained in this report acknowledge that the initiative process has outgrown the existing laws that govern it. After listening to expert testimony from a wide variety of witnesses and compiling data from all 50 states, the task force concluded that the initiative has evolved from its early days as a grassroots tool to enhance representative democracy into a tool that too often is exploited by special interests. The initiative lacks critical elements of the legislative process and can have both intended and unintended effects on the ability of the representative democratic process to comprehensively develop policies and priorities.

As a result, the task force suggests that initiative states reform drafting, certification, signature-gathering and financial disclosure statutes; adhere to single subject rules; and improve practices regarding voter education. It also recommends that initiatives be allowed only on general election ballots.

It is the task force's intent that the discussion and adoption of the reforms in this report lead to a more thoughtful lawmaking process, improve interaction between initiative proponents and legislatures, and ultimately produce better public policy and reinforce representative democracy.



TASK FORCE RECOMMENDATIONS

The following 34 recommendations were adopted unanimously at the final meeting of the NCSL Initiative and Referendum Task Force in Denver, Colorado, on April 26-27, 2002.

The task force does not recommend that states that currently do not have an initiative process adopt one. The task force believes that representative democracy is more desirable than the initiative. The disadvantages of the initiative as a tool for policymaking are many, and the opportunities for abuse of the process outweigh its advantages. However, if a state is intent upon adopting an initiative process, the first four recommendations lay out the task force's view of an effectively structured process.

The remaining recommendations deal with specific elements of the initiative process and are intended as guidelines to improve existing procedures. The task force believes that the adoption of these recommendations will improve the initiative process to the benefit of both state government and voters and will result in improved public policy making via the initiative.

General Recommendations Regarding the Initiative Process

Recommendation 1.1: States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should consider:

- A. First, adopting the advisory initiative; or
- B. In the alternative, adopting the general policy initiative.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Involving the Legislature in the Initiative Process

Recommendation 2.1: States that currently have a direct initiative process should consider adopting an indirect process as well, and provide incentives to encourage its use.

Recommendation 2.2: After a specified percentage of signatures has been gathered for an initiative petition, the legislature should provide for public hearings on the initiative proposal.

Recommendation 2.3: When appropriate, the legislature should place an alternative legislative referral on the ballot with an initiative that appears on the ballot.

The Subject Matter of Initiatives

Recommendation 3.1: States should encourage the sponsors of initiatives to propose them as statutory initiatives when possible, rather than as constitutional amendments.

Recommendation 3.2: States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Recommendation 3.3: If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

The Drafting and Certification Phase

Recommendation 4.1: States should require a review of proposed initiative language by either the legislature or a state agency. The review should include non-binding suggestions for improving the initiative's technical format and content, and should be considered public information.

Recommendation 4.2: States should require the drafting and certification of a ballot title and summary for each initiative proposal. Ballot titles must identify the principal effect of the proposed initiative and must be unbiased, clear, accurate, and written so that a "yes" vote changes current law.

Recommendation 4.3: States should require the drafting of a fiscal impact statement for each initiative proposal. The statement should appear on the petition, in the voter information pamphlet, and on the ballot.

Recommendation 4.4: States should establish a review process and an opportunity for public challenge of technical matters, including adherence to single subject rules, and ballot title, summary and fiscal note sufficiency, to be made prior to the signature-gathering phase.

The Signature Gathering Phase

Recommendation 5.1: States should require that initiative proponents file a statement of organization as a ballot measure committee prior to collecting signatures. States should void any signature that is gathered before a statement of organization is filed.

Recommendation 5.2: States should provide for safeguards against fraud during the signature gathering process. Safeguards should include:

- A. Prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition.
- B. Requiring a signed oath by circulators, stating that the circulator witnessed each signature on the petition and that to the best of the circulator's knowledge, the signatures are valid.
- C. Requiring circulators to disclose whether they are paid or volunteer.

Recommendation 5.3: States should provide for an adequate but limited time period for gathering signatures. The deadline for submission should allow a reasonable time for verification of signatures before the ballot must be certified.

Recommendation 5.4: States should establish a limit on the length of time that verified signatures are valid.

Recommendation 5.5: States should require a higher number of signatures for constitutional amendments than is required for statutory initiatives.

Recommendation 5.6: To achieve geographical representation, states should require that signatures be gathered from more than one area of the state.

Recommendation 5.7: Each state should establish a uniform process for verifying that the required number of valid signatures has been gathered.

Voter Education

Recommendation 6.1: States should provide to the public a manual describing the initiative and referendum process.

Recommendation 6.2: States should encourage public education and discussion about measures on the ballot.

Recommendation 6.3: States should produce and distribute a voter information pamphlet containing information about each measure certified for the ballot.

Recommendation 6.4: In addition to a printed voter information pamphlet, states should consider alternative methods of providing information on ballot measures, such as the Internet, video and audio tapes, toll-free phone numbers, and publication in newspapers.

Financial Disclosure

Recommendation 7.1: States should require financial disclosure by any individual or organization that spends or collects money over a threshold amount for or against a ballot measure.

Recommendation 7.2: After a title has been certified for an initiative measure, states should require that proponents and opponents of the initiative measure file a statement of organization as a ballot measure committee prior to accepting contributions or making expenditures.

Recommendation 7.3: States should make the disclosure requirements for initiative campaigns consistent with the disclosure requirements for candidate campaigns.

Recommendation 7.4: States should prohibit the use of public funds or resources to support or oppose an initiative measure. This should not preclude elected public officials from making statements advocating their position on an initiative measure.

Voting on Initiatives

Recommendation 8.1: States should allow initiatives only on general election ballots.

Recommendation 8.2: States should adopt a requirement that creates a higher vote threshold for passage of a constitutional amendment initiative than for passage of a statutory initiative.

Recommendation 8.3: States should require that any initiative measure that imposes a special vote requirement for the passage of future measures must itself be adopted by the same special vote requirement.

Recommendation 8.4: States should ensure that statutory initiative measures require the same vote threshold for passage that is required of the legislature to enact the same type of statute.

Recommendation 8.5: States should adopt a procedure for determining which initiative measure prevails when two or more initiative measures approved by voters are in conflict.

INTRODUCTION

Initiative and referendum operated quietly in the background of state politics for much of the 20th century, but during the last decade, it has come back into vogue. More initiatives are circulated, more make it to the ballot, and more money is spent in the process than ever before. Consider the numbers: 183 statewide votes on initiatives in the 1970s, 253 in the 1980s, and 383 in the 1990s, more than double the total from the 1970s. California alone accounts for 130 of the total 819 measures during that 30-year period; Oregon can claim 107. Between them, these two states account for nearly 30 percent of all initiatives from 1970 to 1999. It is no wonder that people in California and Oregon are beginning to voice concerns about the initiative process.

Initiative advocates say the resurgence of the initiative is good for states—it means citizens are using it as a tool to implement new laws and reforms that the legislature is unable or unwilling to enact. Besides accomplishing policy change, supporters also say that initiatives increase citizen involvement with government—people are not only more aware of state policy issues, but they are also more likely to vote. For these reasons, movements have begun to establish an initiative process in some of the states that currently do not have such a process.

However, in some states where the initiative is heavily used, there is growing public frustration with initiatives, and some people are beginning to speak out against the process. Legislatures are struggling to find ways to prevent fraud in the signature-gathering process; disclose information about who pays for initiative campaigns; and add flexibility to the process to accommodate more debate, deliberation and compromise than presently exists. Equally concerning to many is the disadvantage that, unlike our legislatures' process of representative government, decisions made through the initiative process do not provide an opportunity to accommodate minority interests. Most importantly, initiatives ask voters to make simple yes-no decisions about complex issues without subjecting the issue to detailed expert analysis and without asking voters to balance competing needs with limited resources. In short, the initiative affects the ability of representative democracy to develop policies and priorities in a comprehensive and balanced manner.

The problems with the initiative process are not easy to solve for a number of reasons. The courts have made it difficult to regulate both petition circulators and initiative campaign finance, and almost any reform can be a difficult political issue because proponents of the initiative generally are hostile to legislative attempts to change the process.

The initiative is a vital and popular part of democracy in half the states (refer to appendix A for a list of initiative states), but it is clear that the initiative has outgrown the existing state laws governing it. NCSL's Initiative and Referendum Task Force set out to first gather the facts and data necessary to paint an accurate picture of how the initiative process works in each state. It identified and focused on problems in the process, then considered ways that the process might be made more open and flexible. The task force feels strongly that the changes it recommends in the initiative process would equally benefit both voters and the legislative process, and that, in the end, a reformed initiative process might produce better public policy.

The task force met three times during a five-month period. Meetings were held on:

- December 7-8, 2001, in Washington, D.C.;
- February 8-9, 2002, in Washington, D.C.; and
- April 26-27, 2002, in Denver, Colorado.

The task force took great care to ensure that it heard testimony from experts and activists on a wide array of issues and from as many points of view as possible. Presenters included both supporters and critics of the initiative process, citizens who use the initiative process, and election administrators. The experts who testified before the task force were:

David Broder, *Washington Post*, Washington, D.C.;

Lois Court, Save our Constitution, Colorado;

Neal Erickson, Office of the Secretary of State, Nebraska;

Wayne Pacelle, Humane Society of the United States, Washington, D.C.;

John Perez, Speaker's Commission on the California Initiative Process, California;

Honorable Joe Pickens, State Representative, Florida;

Larry Sokol, Speaker's Commission on the California Initiative Process, California;

M. Dane Waters, Initiative and Referendum Institute, Washington, D.C.; and

Joseph F. Zimmerman, State University of New York-Albany, New York.

In addition to the experts who testified before the task force, the task force members themselves are experts on the initiative process. The perspectives and suggestions that each member brought to the table contributed to the extensive body of knowledge the task force developed about how the initiative works around the country. Finally, the task force also relied on a wide array of written materials on the initiative process. These include reports from earlier initiative reform commissions and task forces, and the many books and academic papers that are listed in appendix B and in the reference section of this report.

The task force adopted 30 recommendations for legislatures in the initiative states that are seeking guidance on how their initiative process might be improved. Four additional recommendations are meant for states that may be thinking about adopting an initiative process. Although the task force does not recommend that non-initiative states adopt such a procedure, these four recommendations are offered for those states that have, nonetheless, made the decision to go forward.

All the recommendations were based on a set of observations and conclusions about representative and direct democracy that were adopted by the task force at its first meeting. These principles reflect the task force members' belief that it is important to carefully balance the pure democratic impulse of the initiative with the deliberative, consensus-

building practices of representative democracy. It also is the belief of task force members that the adoption of this set of recommended reforms by initiative states will lead to a more thoughtful lawmaking process, improved interaction between initiative proponents and legislatures, and ultimately, better public policy.

OBSERVATIONS AND CONCLUSIONS ABOUT REPRESENTATIVE AND DIRECT DEMOCRACY

Adopted by the NCSL I&R Task Force on April 27, 2002

We offer in the following observations regarding representative and direct democracy.

1. Representative democracy is the foundation of America's system of government.
2. Representative democracy has provided a stable and flexible system of government that has served America well for more than 200 years.
3. Direct democracy, as envisioned in the initiative and referendum system, was first instituted as a check on representative democracy. It was meant to enhance representative government, not to supercede or abolish it.
4. As intended by its founders, the initiative and referendum process was meant to give citizens a tool to break what they perceived as the hold of special interests over some state legislatures.
5. In most of the 24 states where it exists, the initiative is a popular part of the lawmaking process.
6. The initiative brings to the fore issues that may not receive legislative attention or final action and engages citizens in a debate of important public policy issues.

Based on these observations, we draw the following conclusions about direct democracy.

1. The initiative has evolved from its early days as a grassroots tool to enhance representative government. Today, it is often a tool of special interests.
2. The initiative process, as it exists today, lacks some of the critical elements of the representative system of government, including debate, deliberation, flexibility, compromise and transparency.

3. The initiative process does not involve all the checks and balances that representative government does.
4. The initiative can affect the ability of representative democracy to develop policies and priorities in a comprehensive and balanced manner.
5. As the initiative process and the way it is used have evolved over time, a review of the laws governing it is merited.

1. GENERAL RECOMMENDATIONS REGARDING THE INITIATIVE PROCESS

Recommendations

The task force does not recommend that states that currently do not have an initiative process should adopt one. However, if a state is intent upon adopting an initiative process, the following four recommendations lay out the task force's view of how an effective process might be structured.

Recommendation 1.1: States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should consider:

- A. First, adopting the advisory initiative; or
- B. In the alternative, adopting the general policy initiative.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Overview

The task force does not recommend that non-initiative states adopt an initiative process. However, should a state choose to do so, the recommendations in this chapter outline what the task force considers to be an ideally structured initiative process.

The Advisory Initiative

An advisory initiative process provides citizens with a formal means of presenting to the legislature the views of the majority on a particular issue, but stops short of the actual enactment of laws. It permits public input in the decision-making process, and allows the legislature to weigh public opinion in determining the appropriate implementation. In short, the advisory initiative uses a more deliberative lawmaking process than the direct initiative. Another advantage of the advisory initiative over the binding direct initiative is that, with the direct initiative, a slim majority might enact a binding policy measure, but a close vote on an advisory initiative simply indicates a lack of consensus.

Recommendation 1.1(A): States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, states should first consider adopting the advisory initiative.

Several states use the advisory referendum, whereby the legislature or even the governor may place a question on the ballot, asking voters their opinion on an issue. In 2000, for example, the governor of Rhode Island placed an advisory question on the statewide ballot, asking voters if they favored co-equal branches of government. It is much rarer for states to permit citizens to initiate an advisory question.

The General Policy Initiative

A general policy initiative is similar to the advisory initiative discussed above, except that it is binding upon the legislature. If the voters pass a citizen initiative of a general sort—for instance, expressing their desire that the state use tobacco settlement revenues for improving health care—it is up to the legislature to enact the specific laws required to implement that general policy. Like the advisory initiative, the general policy initiative permits direct public input to the policymaking process but uses a more deliberative approach to crafting detailed policy. The general policy initiative offers citizens the opportunity to put their policy ideas before the voters, but offers legislatures more flexibility in implementing voter-mandated policy than does the initiative process currently offered in 24 states.

Recommendation 1.1(B): States that are considering adopting an initiative process should give preference to one that encourages citizen participation without enacting specific constitutional or statutory language. Specifically, as an alternative to the advisory initiative, states should consider adopting the general policy initiative.

The Indirect Initiative

The indirect initiative is frequently offered as an improvement over the direct initiative because it allows for legislative analysis, committee hearings and floor debate. Legislative deliberation and debate on the issue itself and its effect on other existing policies may result in an improved initiative proposal because unintended consequences and errors may come to light.

Pitfalls exist in the indirect initiative process, however, which prevent it from being a panacea to the problems of the initiative. The main argument against the indirect initiative is that, where the process is currently offered, legislatures rarely take up the initiative proposal and, when they do, they almost always reject initiative proposals. Rarely do they engage in negotiation with initiative proponents and seek to craft a compromise. Most often, indirect initiatives are rejected by the legislature and end up on the ballot for a popular vote; the indirect process has done little but protract the initiative process.

In spite of its pitfalls, the indirect initiative process is more desirable than the direct initiative process because it allows for more public debate and deliberation, and it involves the legislature, with its professional research and bill drafting staff, in the process.

Recommendation 1.2: If states wish to adopt an initiative process and neither the advisory initiative nor the general policy initiative are adopted, they should adopt an indirect initiative process.

Eight states currently offer an indirect initiative process. In the indirect initiative process, a proposed initiative is referred to the legislature after proponents have gathered the required number of signatures. The legislature has the option to enact, defeat or amend the measure. Depending on the legislature's action, the proponents may continue to pursue placement on the ballot for a popular vote. In three states (**Massachusetts, Ohio and Utah**), proponents must gather additional signatures to place the measure on the ballot; in the others, it automatically goes to the ballot.

	Constitutional Amendments	Statutory Initiatives
Maine		✓
Massachusetts	✓	✓
Michigan		✓
Mississippi	✓	
Nevada		✓
Ohio		✓
Utah*		✓
Washington*		✓

*State also has a direct initiative process; proponents may select the direct or indirect route.
 Note that the table does not represent all forms of the initiative process available in each state; only the indirect processes are represented.
 Source: National Conference of State Legislatures, January 2002.

In several states (Maine, Massachusetts, Michigan, Nevada and Washington), it is specifically provided for in law that the legislature may place an alternate proposition on the ballot with the initiative. Voters may vote for one or the other or for neither.

Alaska's and Wyoming's initiative processes are sometimes cited as indirect. However, instead of requiring that an initiative be submitted to the legislature for action, they require only that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned, thus providing the legislature with the opportunity to address the issue if it so chooses.

Two states—Utah and Washington—offer both the direct and indirect initiative process; proponents have the option of choosing either. In Utah, the initial signature requirement is lower for the indirect process. This serves as an incentive to proponents to choose the indirect route and thus incorporate the legislature into the process. Qualifying an initiative directly to the ballot requires signatures equal to 10 percent of the votes cast for governor in the last election; presenting an indirect initiative to the Legislature requires signatures equal to 5 percent of the votes cast for governor in the last election. However, if the indirect initiative is rejected by the Legislature, proponents must gather additional signatures equal to 10 percent of the votes cast for governor, creating a total signature threshold for indirect initiatives that is higher than that for direct initiatives. As a consequence, use of Utah's indirect initiative is significantly lower than use of the direct method.

California had an indirect initiative process until 1966. It was available in addition to the direct process, and proponents were permitted to choose the process they would use. The indirect option was rarely used, and voters approved its abolition in 1966.

Nevada currently has an indirect process for statutory initiatives. At one time, it also had the indirect process for initiative constitutional amendments, but it abolished this option in 1962. Voters approved a constitutional amendment referred by the Legislature that abolished the indirect process for constitutional amendments and at the same time imposed the requirement that any constitutional amendment be approved by a majority vote in two successive elections.

Adopting an indirect initiative process has been suggested as a significant reform by the following individuals and groups.

Professor Joseph Zimmerman, SUNY-Albany (in testimony before the task force in February 2002),
 Speaker's Commission on the California Initiative Process (2002),
 David Broder, *Washington Post* (in testimony before the task force on Dec. 7, 2001),
 Dane Waters, I&R Institute (in testimony before the task force on Dec. 8, 2001),
 California League of Women Voters (1999),
 City Club of Portland, Oregon (1996),
 Citizens' Commission on Ballot Initiatives (California, 1994),
 Florida's Citizen Initiative Process Report (1994), and
 California Commission on Campaign Financing (1992).

Case Studies: The Indirect Initiative

Switzerland

Switzerland's initiative process, which has long been cited as a model of a successful initiative process and heavily influenced the early development of the initiative in the United States, is an indirect process. When an initiative is submitted to the legislature in a Swiss canton, the legislature has four years to deliberate and act on the measure before it is referred to the ballot. When it does go to the ballot, the legislature often submits a statement of its position on the measure and has the option of placing a competing measure on the ballot. Most important, however, is the fact that many initiatives are withdrawn from the legislature before they reach the ballot. According to Richard Ellis in *Democratic Delusions: The Initiative Process in America*, the most common reason for this is that the legislature has promised or taken action that satisfies the proponents. Ellis writes that:

"The initiative in Switzerland is thus an integral part of the legislative process and is often used as a spur to get a majority in the legislature to heed the concerns of minority groups that have previously been thwarted in the assembly. Unlike in the United States, where the initiative process is a badly confrontational, zero-sum game, in Switzerland it is often employed to arrive at a consensus by facilitating legislative deliberation and compromise."¹

Massachusetts

The indirect initiative process used for constitutional amendments in Massachusetts is unique because a citizen-initiated constitutional amendment cannot gain ballot access without first passing the legislature. An initiated constitutional amendment must be approved in two consecutive legislative sessions before it can go on the ballot. In the first session, it may be amended by the legislature with a three-fourths vote, and must be approved by one-fourth of the legislature in a joint session in order to advance to the second legislative session. In the second session, the proposal must again be approved by one-fourth of the legislature in a joint session in order to advance to the ballot. The legislature may not amend the proposal at this point in the process, but it may place a substitute measure on the ballot together with the initiative proposal. Few initiated constitutional amendments survive this process and ultimately land on the ballot (three in the history of the state), but many initiatives that fail to pass the legislature and advance to the ballot succeed in prodding the legislature to take action on the issue.

The process for statutory initiatives in Massachusetts, although still indirect, is less rigorous than the process for constitutional initiatives. A statutory initiative must be

heard by the committee to which it is referred, and the committee must issue a report. If the legislature fails to enact the proposal, proponents may gather a small number of additional signatures to place it on the ballot. The legislature may place its own substitute proposal on the ballot together with the initiative proposal.

The advantages of the Massachusetts indirect initiative are that 1) the legislature is incorporated into the process, resulting in public consideration and debate, and 2) it gives the legislature the opportunity and an adequate period of time to respond to a proposal presented in an initiative. By making the constitutional process more difficult to use, it also directs more proposals toward the statutory initiative instead of the constitutional initiative. Its disadvantage is that it allows the legislature to block an initiative constitutional amendment from reaching the ballot, something that initiative advocates find too restrictive.

1. Richard Ellis, *Democratic Delusions: The Initiative Process in America* (Lawrence, Kan.: University Press of Kansas, 2002, 140-1.

Initiated Statutes vs. Constitutional Amendments

Constitutions are the foundations of state laws and governments. They are sacrosanct and should not be amended hastily or at the whim of a narrow segment of society. In offering an initiative constitutional amendment process, a state runs the risk of accumulating material in its constitution that is statutory in nature, since initiative proponents are left with no other tool to initiate policy.

Recommendation 1.3: If states adopt a direct initiative process, they should adopt only a statutory initiative process, not a constitutional amendment initiative process.

Offering a statutory initiative process in addition to a constitutional amendment initiative process also can help avoid this problem. Some initiative proponents will choose the statutory process if it is available to them, especially if incentives are offered to encourage the use of the statutory process over the constitutional process.

Recommendation 1.4: If states adopt a constitutional amendment initiative process, they also should adopt a statutory initiative process.

Other Ideas for Reform

Limits on the Legislature's Power to Amend and Repeal Initiated Statutes

Limiting the legislature's power to amend and/or repeal a statute enacted through the initiative may be an incentive to encourage the use of the statutory initiative over the constitutional initiative. Very often, initiative proponents elect to use the constitutional initiative in order to prevent the legislature from amending or repealing their proposal. If proponents were assured that the legislature's ability to amend and/or repeal statutory initiatives was limited, perhaps they would be more inclined to avail themselves of the statutory initiative process.

Currently, the legislature's power to amend and/or repeal a statute passed by the initiative is restricted in 10 states, and in California, it is expressly prohibited. In these states, a supermajority vote of the legislature is required to amend or repeal an initiated measure, or the legislature may be prohibited from acting on an initiated measure for a specified period of time. In the other 14 states, the legislature is free to amend or repeal an initiated measure at any time.

Table 2. Legislative Amendment and Repeal of Initiated Measures

	Restriction
Alaska	No repeal within two years; amendment by majority vote anytime
Arizona	No repeal; 3/4 vote to amend; amending legislation must "further the purpose" of the measure
Arkansas	2/3 vote of the members of each house to amend or repeal
California	No amendment or repeal of an initiative statute by the Legislature unless the initiative specifically permits it
Michigan	3/4 vote to amend or repeal
Nevada	No amendment or repeal within three years of enactment
North Dakota	2/3 vote required to amend or repeal within seven years of effective date
Oregon	2/3 vote required to amend or repeal within two years of enactment
Washington	2/3 vote required to amend or repeal within two years of enactment
Wyoming	No repeal within two years of effective date; amendment by majority vote any time

Source: National Conference of State Legislatures, January 2002.

Recent Legislative Action

In the period of 1999-2002, 17 non-initiative states saw legislation proposing the adoption of an initiative process. In Minnesota, an initiative bill passed the House twice in recent years. In fact, Minnesota voters have voted against adopting the initiative three times since 1913. However, the vote has been close, and the idea of adopting the initiative process continues to have strong support in Minnesota. In New York, Governor Pataki urged the adoption of the initiative in his 2002 state-of-the-state address. Several initiative bills currently are pending in the New York Legislature, one of which has passed the Senate.

Florida, which has had an initiative process for constitutional amendments since 1972, considered a bill in 2002 that would have provided for citizen initiatives to amend the statutes, as well. The bill would have modified the constitutional initiative process at the same time, changing the vote requirement from a simple majority to a two-thirds vote and requiring economic impact statements for all initiatives. The bill passed the House but failed to pass the Senate.

2. INVOLVING THE LEGISLATURE IN THE INITIATIVE PROCESS

Recommendations

Recommendation 2.1: States that currently have a direct initiative process should consider adopting an indirect process as well, and provide incentives to encourage its use.

Recommendation 2.2: After a specified percentage of signatures has been gathered for an initiative petition, the legislature should provide for public hearings on the initiative proposal.

Recommendation 2.3: When appropriate, the legislature should place an alternative legislative referral on the ballot with an initiative that appears on the ballot.

Overview

Further integrating the legislature into the initiative process would result in improved policymaking in the initiative states. Initiatives often tie the hands of the legislature, preventing state legislatures from developing broad, cohesive state policies. Improving the adversarial nature of the relationship between initiative advocates and state legislatures would be beneficial to legislatures and initiative proponents alike—initiative proponents would be more likely to see the legislature enact the policies they advocate, and legislatures would face fewer voter-mandated policies that restrict their flexibility and discretion in the

lawmaking process.

Furthermore, increasing legislative involvement in the initiative process enhances the debate that surrounds initiative proposals and provides more opportunity for public access and input to the initiative process.

The Indirect Initiative

As discussed in chapter one, the indirect initiative process is more desirable than the direct process. In Utah and Washington, however, which have both types of processes, the indirect variety is rarely used. If states provided incentives—such as creating a lower signature threshold and a longer circulation period for indirect measures, or requiring the legislature to hold hearings on all indirect initiatives submitted—to proponents to use the indirect process, perhaps more proponents would be drawn to the indirect process. The benefits of such incentives also might include a significant monetary savings for proponents if they are able to reach a compromise with the legislature and thus avoid a campaign, and an improved end product, thanks to the legislative hearing process. No matter how a state chooses to structure an indirect initiative process, the legislature must actively interact and negotiate in good faith with initiative proponents if the process is to be effective.

Recommendation 2.1: States that currently have a direct initiative process should consider adopting an indirect process as well, and provide incentives to encourage its use.

Public Hearings on Initiatives

Public hearings provide a forum for expert testimony, staff research and analysis, and debate by opposing sides. They also establish a public record of the proponents' intent, which could be useful to voters, to both sides in a campaign, and also in later court challenges, should they arise. Public hearings could be handled in several ways. The legislature itself could hold hearings on measures that have gathered a specified minimum percentage of the required signatures or on measures that have qualified for the ballot. As an alternative, the secretary of state could be required to hold public hearings on initiatives.

Recommendation 2.2: After a specified percentage of signatures has been gathered for an initiative petition, the legislature should provide for public hearings on the initiative proposal.

The organizations and individuals recommending public hearings for initiatives include:

Dane Waters of the I&R Institute (in testimony before the task force in December 2001), California League of Women Voters (1999), City Club of Portland, Oregon (1996), Nebraska Petition Process Task Force (1995), California Post Commission (1994), and California Commission on Campaign Financing (1992).

Case Studies: Public Hearings on Initiatives

California's Senate Bill 384, proposed in the 1999-2000 legislative session, would have triggered public hearings for any initiative that obtained 15 percent of the required signatures. After the hearing, proponents would be permitted to make non-substantive technical changes—such as correcting drafting errors or making stylistic changes—then could continue to gather the remaining required signatures.

Oregon's House Bill 3487 from the 1999 legislative session would have created a 12-member citizen initiative review committee appointed by the governor, the president of the Senate, and the speaker of the House. After holding hearings on a proposal, the committee would be required to issue a report to the public and the news media, identifying issues raised by the proposal and including a fiscal impact estimate and summaries of all public testimony received at hearings. Proponents would be permitted to make non-substantive amendments to the initiative, subject to attorney general approval, after the report was issued.

Referring Legislative Alternatives to Initiative Proposals

If the legislature feels that an initiative measure is flawed, it should exercise its right to place an alternative measure on the ballot. When the legislature's proposal is placed on the ballot together with an initiative, voters are offered more than a simple yes/no vote—they

are offered policy choices. The presence of similar but competing measures on the ballot also can prompt public debate and analysis of the proposals, resulting in more thorough attention to the perceived problem and potential solutions the measures address.

Recommendation 2.3: When appropriate, the legislature should place an alternative legislative referral on the ballot with an initiative that appears on the ballot.

Support for this reform has been expressed by Professor Joseph Zimmerman (in testimony before the task force in February 2002) and the California Post Commission (1994).

Case Studies: Legislative Alternatives to Initiatives

In at least five states (Maine, Massachusetts, Michigan, Nevada and Washington), the legislature is specifically granted the power to place alternatives to initiatives on the ballot. In most other states, the legislature is neither specifically granted nor denied that power. The Maine Legislature frequently chooses to exercise this right. In 1996, for example, Question 2A appeared on the ballot. It was a citizen initiative that sought to ban the timber harvesting practice of clearcutting in the state. The Legislature placed Question 2B on the ballot, a more moderate proposal. Voters also were offered Question 2C, which was a vote for neither 2A nor 2B. Question 2B, the Legislature's alternative to the initiative, passed.

Recent Legislative Action

California, Oregon and Utah considered bills that would permit the legislature to make certain amendments to proposed initiatives before they are placed on the ballot. Utah passed HB 143 in 1999, which allows the Legislature to make technical corrections to indirect initiatives submitted to the Legislature and to prepare a legislative review note and fiscal note for indirect initiatives. Four states considered requiring legislative review and comment on proposed initiatives.

3. THE SUBJECT MATTER OF INITIATIVES

Overview

It is common for states to prohibit the use of the initiative for certain subjects. In Massachusetts and Mississippi, for instance, the initiative cannot be used to modify or repeal the rights of individuals, and several states prohibit initiatives that deal with the judiciary. These are fundamental matters of law, and it is appropriate that some states should choose to remove them from the purview of the initiative process. Some scholars and reformers argue that the same argument extends to state constitutions—that they are the foundations of state law, and changing them should not be entered into lightly.

Constitutional vs. Statutory Initiatives

In many initiative states, constitutions are becoming cluttered with matter that is more appropriate for the state's statutes. Initiative proponents often use the constitutional amendment rather than the statutory initiative because they fear the legislature might amend or repeal their initiative if they place it in statute. They are further encouraged to use the constitutional amendment because it is rarely more difficult or costly to pass than a statutory initiative. States could implement reforms that provide incentives for using the statutory process, such as lower signature thresholds and increased circulation periods. They can also reassure proponents by enacting time limits during which the legislature may only amend an initiated statute with a supermajority vote. This subject is also discussed on page 10 in chapter one.

Recommendation 3.1: States should encourage the sponsors of initiatives to propose them as statutory initiatives when possible, rather than as constitutional amendments.

The City Club of Portland made a similar recommendation in 1996. Their recommendation states that the process for amending the Oregon Constitution should be substantially more difficult than adopting, amending or repealing a statute.

Recommendations

Recommendation 3.1: States should encourage the sponsors of initiatives to propose them as statutory initiatives when possible, rather than as constitutional amendments.

Recommendation 3.2: States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Recommendation 3.3: If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

Single Subject Rules

Single subject rules require that an initiative address only one question or issue. Such rules benefit the initiative process because they make initiatives simpler and easier to understand. There is a danger in permitting a popular vote on a measure that addresses multiple, distinct subjects. How might a voter express his support of one subject but his rejection of another in such a situation? The lack of a single subject rule also leaves the door open to proponents who might try to make an unpopular idea more palatable by pairing it with a popular idea in a single initiative. In such cases, it is impossible to determine the majority's viewpoint on an issue.

Recommendation 3.2: States should adopt the single subject rule to enhance clarity and transparency in the initiative process.

Single subject rules also are common in legislatures—41 states have constitutional provisions stipulating that bills may address only one subject, and several others have chamber rules for single-subject bills.

Among the groups that express support for single subject rules are:

Speaker's Commission on the California Initiative Process (2002),
 Professor Joseph Zimmerman (in testimony before the task force, February 2002),
 California League of Women Voters (1999),
 Nebraska Petition Process Task Force (1995),
 California Policy Seminar (1991), and
Los Angeles Times (1990).

Currently, the following 12 initiative states require that initiatives address no more than one subject. Wide variation exists in how these states define "single subject" and in how courts have interpreted the definitions.

Alaska	Florida	Oklahoma
Arizona	Missouri	Oregon
California	Montana	Washington
Colorado	Nebraska	Wyoming

Banning Similar Measures from the Ballot for a Specified Period of Time

Banning the same or a substantially similar measure from reappearing on the ballot for a specified period of time helps to reduce the number of measures on the ballot.

Recommendation 3.3: If an initiative measure is rejected by voters, states should prohibit an identical or substantially similar initiative measure from appearing on the ballot for a specified period of time.

Five states currently prohibit the same or a substantially similar measure from reappearing on the ballot for a specified period of time after it is rejected by voters. Time periods range from two years in **Mississippi** to five years in **Wyoming**. If an initiative is found to be the same or substantially similar to an initiative that appeared on the ballot within the specified time frame, state election officials deny the proponent's initiative application.

In none of these states are the terms “same” and “substantially similar” defined in statute or the constitution. The decision about whether a measure is the “same” or “substantially similar” is left to a state official, generally the state’s chief election officer or, ultimately, the courts.

	Language of the Ban	Time Period
Massachusetts	A measure cannot be substantially the same as any measure that has been qualified for submission or appeared on the ballot at either of the two preceding biennial state elections.	Six years (banned from next two biennial state elections)
Mississippi	If an initiative is rejected, no initiative petition proposing the same or substantially the same amendment shall be submitted to the electors.	Two years
Nebraska	The same measure, either in form or in essential substance, shall not be submitted by initiative petition more often than once in three years.	Three years
Oklahoma	Any initiative measure rejected by the people cannot be again proposed by initiative within three years by less than 25 percent of the legal voters.	Three years
Wyoming	An initiative petition may not be filed for a measure substantially the same as that defeated by an initiative election within the preceding five years.	Five years

Source: National Conference of State Legislatures, April 2002.

In many states, a similar restriction is imposed on the legislature, prohibiting bills that have been defeated (or bills that are substantially the same as ones defeated) from being reintroduced—either as a bill or an amendment—during the same legislative biennium. Florida, Mississippi, Ohio and Wyoming are examples of initiative states with such rules for their legislatures.

Table 4 summarizes all initiative subject restrictions.

	Single Subject?	Other Subject Restrictions
Alaska	Yes	No revenue measures No appropriations No acts affecting the judiciary No local or special legislation
Arizona	Yes	None
Arkansas	No	None
California	Yes	May not include or exclude any political subdivision of the state from application or effect. May not contain alternative or cumulative provisions wherein one or more of those provisions would become law, depending upon the casting of a specified percentage of votes for or against the measure.

Table 4. Initiative Subject Restrictions (continued)		
	Single Subject?	Other Subject Restrictions
Colorado	Yes	None
Florida	Yes	May not include limitations on the power of government to raise revenue.
Idaho	No	None
Illinois	Yes	Allowed only for amendment of constitutional Article IV, relating to structural and procedural subjects concerning the legislative branch.
Maine	No	Any measure providing for an expenditure of funds in excess of those appropriated becomes inoperative 45 days after the legislature convenes.
Massachusetts	No*	<p>No measures relating to:</p> <ul style="list-style-type: none"> • Religion • The judiciary • Specific appropriations • Local or special legislation • The 18th amendment of the constitution • Anything inconsistent with the rights of individuals as enumerated in the constitution <p>A measure cannot be substantially the same as any measure that has been qualified for the ballot or appeared on the ballot in either of two preceding general elections.</p>
Michigan	No	The initiative power extends only to laws that the Legislature may enact.
Mississippi	No	<p>The initiative cannot be used to amend/repeal the:</p> <ul style="list-style-type: none"> • Bill of Rights • Public employees' retirement system • Right-to-work provision • Initiative process <p>Only first five certified measures may go on ballot</p> <p>If a measure is rejected by voters, no identical or substantially similar measure may go on ballot for a minimum of two years.</p> <p>If an initiative requires a reduction in government revenue or a reallocation from currently funded programs, the initiative text must identify the program or programs whose funding must be reduced or eliminated to implement the initiative.</p>
Missouri	Yes	<p>No appropriations of money other than new revenues created and provided for by the initiative.</p> <p>Cannot be used for any purpose prohibited by the state's constitution</p>
Montana	Yes	<p>No appropriations</p> <p>No local or special laws</p>
Nebraska	Yes	<p>Limited to matters that can be enacted by legislation and cannot interfere with Legislature's ability to direct taxation for state and governmental subdivisions.</p> <p>The same measure cannot be initiated more often than once in three years.</p>
Nevada	No	<p>No appropriations</p> <p>Cannot require an expenditure of money unless a sufficient tax is provided as part of the initiative proposal.</p>

Table 4. Initiative Subject Restrictions (continued)		
	Single Subject?	Other Subject Restrictions
North Dakota	No	No emergency measures No appropriation measures for the support and maintenance of state departments and institutions
Ohio	No	May not be used to pass a law: <ul style="list-style-type: none"> • Authorizing any classification of property for the purpose of levying different rates of taxation thereon • Authorizing the levy of any single tax on land, land values or land sites at a higher rate or by a different rule than is applied to improvements thereon or to personal property
Oklahoma	Yes	Initiatives rejected by the voters cannot be proposed again for three years by less than 25 percent of the state's legal voters
Oregon	Yes	None
South Dakota	No	No private or special laws
Utah	No	None
Washington	Yes	None
Wyoming	Yes	Cannot be used to: <ul style="list-style-type: none"> • Dedicate revenues • Make or repeal appropriations • Create courts • Define the jurisdiction of courts • Prescribe court rules • Enact local or special legislation • Enact legislation prohibited by the Wyoming constitution The same measure cannot be initiated more often than once in five years.

*In interviews conducted in May 2002, election officials in Massachusetts said that although that state does not have a single subject rule, it does have a requirement that an initiative contain only subjects that are related or mutually dependent. Courts have interpreted relatedness to mean that "... one can identify a common purpose to which each subject of [the] initiative petition can reasonably be said to be germane."
Source: National Conference of State Legislatures, January 2002.

Other Ideas for Reform

Restrictions on the Dedication of Revenue

Initiative measures that mandate the expenditures of large amounts of public revenue without including a new dedicated revenue source (such as taxes or fees) can make it difficult for the legislature to continue to fund existing state services and programs. In addition, initiatives that increase or create new taxes to fund new or existing programs negatively affect the legislature's ability to impose reasonable taxes to fund necessary programs for citizens. Although the task force agreed that initiatives limiting or dedicating revenue or otherwise imposing fiscal policies can be a significant problem—perhaps even the most serious problem—in the initiative process, members were unable to agree on a specific recommendation to address the issue.

The City Club of Portland recommended in 1996 that Oregon's initiative process be changed so that initiatives that dedicate revenue or require appropriations in excess of \$500,000 per year should be required to provide new revenues.

Eleven states currently have restrictions on the use of the initiative with regard to appropriations and funding mechanisms.

Table 5. Restrictions on Imposing Fiscal Policies Via the Initiative	
	Restriction
Alaska	No dedication of revenues or making or repealing appropriations.
Florida	Tax or fee increases require a 2/3 vote to pass.
Maine	Expenditures in an amount in excess of available and unappropriated state funds remain inoperative until 45 days after the regular legislative session, unless the measure provides for raising new revenues adequate for its operation.
Massachusetts	May not be used to make a specific appropriation from the treasury. However, if such a law, approved by the people, is not repealed, the legislature must raise by taxation or otherwise and appropriate such money as may be necessary to carry such law into effect.
Mississippi	Sponsor must identify in the text of the initiative the amount and source of revenue required to implement the initiative. Initiatives requiring a reduction in government revenue or a reallocation from currently funded programs must identify the program(s) whose funding must be reduced or eliminated to implement the initiative.
Missouri	May not appropriate money other than new revenues created and provided for by the initiative.
Montana	May not appropriate money.
Nebraska	No measure that interferes with the Legislature's ability to direct taxation of necessary revenues for the state and its governmental subdivisions.
Nevada	No appropriations or other expenditures of money, unless such statute or amendment also imposes a sufficient tax or otherwise constitutionally provides for raising the necessary revenue.
North Dakota	No appropriations for the support and maintenance of state departments and institutions.
Wyoming	No dedication of revenues or making or repealing appropriations.

Source: National Conference of State Legislatures, April 2002.

Recent Legislative Action

A total of 29 bills dealing with initiative subject matter were introduced in 14 states between 1999 and 2002. None have passed to date. Among the most common subjects were:

- Prohibiting or restricting appropriations and reductions in state revenue via an initiative (considered in **Arizona**, **Mississippi** and **Washington**); a bill is pending in **Michigan** that would prohibit using the popular referendum for acts whose primary purpose is to make appropriations or meet deficiencies in state funds.

- Strengthening and providing for interpretation of single subject rules (pending in California; also considered in Oklahoma).
- Making it more difficult to propose and pass wildlife measures (considered in Alaska, Massachusetts, Oklahoma and Washington).
- Banning a measure that is failed by voters from returning to the ballot for a specified period of time (considered in Maine and Oregon).

Other measures that address initiative subjects included a 1999 bill in Arizona that would have established a four-year sunset provision for initiatives that establish the functions or activities of a state agency; a 1999 Oregon bill that would have prohibited initiatives that result in the taking of private property; and a pending bill to enact an initiative procedure in New Jersey that would be limited to campaign finance, lobbying, government ethics and election procedures. A failed 1999 bill in Oregon would have limited initiative amendments to the constitution to the structure and powers of government and the rights of people with respect to their government, and would have prohibited initiated constitutional amendments that dedicated or appropriated revenue, repealed appropriations, or required expenditures in excess of \$500,000 per year.

4. THE DRAFTING AND CERTIFICATION PHASE

Recommendations

Recommendation 4.1: States should require a review of proposed initiative language by either the legislature or a state agency. The review should include non-binding suggestions for improving the initiative's technical format and content, and should be public information.

Recommendation 4.2: States should require the drafting and certification of a ballot title and summary for each initiative proposal. Ballot titles must identify the principal effect of the proposed initiative and must be unbiased, clear, accurate and written so that a "yes" vote changes current law.

Recommendation 4.3: States should require the drafting of a fiscal impact statement for each initiative proposal. The statement should appear on the petition, in the voter information pamphlet, and on the ballot.

Recommendation 4.4: States should establish a review process and an opportunity for public challenge of technical matters, including adherence to single subject rules, and ballot title, summary and fiscal note sufficiency, to be made prior to the signature-gathering phase.

Overview

Certifying an initiative for signature collection is an involved process with many steps and deadlines. No two states have exactly the same certification requirements. Generally, however, the process includes these steps:

- 1) Drafting the initiative proposal;
- 2) Preparation of a ballot title and summary;
- 3) In some states, preparation of a fiscal analysis; and
- 4) Technical challenges to ballot titles, summaries and fiscal analyses.

Drafting the Initiative Proposal

Often, initiatives are drafted by citizens who have little or no legal background or expertise. Making the legislature's professional bill drafting staff available to proponents may help to prevent errors in drafting and ensure that a proposal's language is in the proper form and harmonizes with other constitutional or statutory language. Advice from the legislature's legal experts also may help initiative proponents recognize constitutional flaws and unintended consequences of their proposal. Correcting such problems early in the process can help proponents avoid costly court battles later in the process. In short, assistance and advice from legislative bill drafting staff may help improve the quality and consistency of initiative measures. Making public the comments and recommendations of such a review process is important because it can draw attention to issues that otherwise might escape public notice.

Recommendation 4.1: States should require a review of proposed initiative language by either the legislature or a state agency. The review should include non-binding suggestions for improving the initiative's technical format and content, and should be considered public information.

Voter information pamphlets should be user-friendly. They should group related measures, and should use charts and other graphic elements to facilitate comparisons. The information provided for each ballot measure should include the ballot title, an impartial summary, fiscal analysis, arguments for and against each measure, and the text of the proposed law. Some states also include in their ballot pamphlets statements that point out conflicting measures, explaining what will happen if both are adopted. Other states' ballot pamphlets list programs or services that a measure containing an appropriation would take money away from.

Voter information pamphlets are required by statute in 14 of the initiative states. In most states, the pamphlets are printed by the state's chief election official and generally include the text of the measure, an impartial analysis or summary, a fiscal impact statement, and arguments for and against the proposed initiative. In Colorado, the Legislative Council is responsible for writing and assembling the pamphlet, which includes a detailed, impartial analysis of each proposed measure and arguments for and against. Table 15 contains detailed information about the production and contents of voter information pamphlets in the initiative states.

	Who Prepares and Distributes	Contents of Pamphlet
Alaska	Lt. Governor	Full text Ballot title and summary from petition Neutral summary prepared by Legislative Affairs Agency Statements for and against (limited to 500 words each) *Also published in full on Lt. Governor's homepage www.gov.state.ak.us/ltgov/elections/homepage.html
Arizona	Secretary of State prepares; county boards of supervisors distribute	Title Text Arguments for and against Analysis (prepared by Legislative Council) Summary of fiscal impact statement *Also published in full on Secretary of State's homepage http://www.sosaz.com/election
Arkansas	N/A	Text of measures published online at http://sosweb.state.ar.us/elect.html
California	Secretary of State	Text Copy of specific constitutional or statutory provision that would be repealed or revised Arguments and rebuttals for and against Analysis (prepared by Legislative Analyst) Fiscal impact estimate Art work, graphics and other materials that the Secretary of State determines will make pamphlet easier to understand *Also published in full on Secretary of State's homepage http://www.ss.ca.gov/elections/elections.htm

Table 15. Voter Information Pamphlets (continued)

	Who Prepares and Distributes	Contents of Pamphlet
Colorado	Legislative Council	Title Text Impartial analysis, including description of major provisions of proposal and comments on proposal's application and effect (Legislative Council prepares) Summary of major arguments for and against (Legislative Council prepares) Fiscal impact statement *Also published on the Legislative Council's Web page, and hyperlinked from the Secretary of State's page http://www.sos.state.co.us/pubs/elections/main.htm
Florida	Up to individual counties to prepare if they choose	Varies from county to county Information also available online at http://election.dos.state.fl.us/initiatives/initiativelist.asp
Idaho	Secretary of State	Title Text Ballot number Arguments and rebuttals for and against *Also published in full on Secretary of State's homepage http://www.idsos.state.id.us/elect/eleindex.htm
Illinois	None	N/A
Maine	Secretary of State	Title Text Summary of intent and content Explanation of significance of a "yes" or "no" vote *Text of measures published in full on Secretary of State's Web site http://www.state.me.us/sos/cec/elec/
Massachusetts	Secretary of Commonwealth	Title Text Summary prepared by Attorney General Fair and neutral one-sentence statement of the effects of a "yes" or "no" vote (prepared by Attorney General and Secretary of Commonwealth) Arguments for and against. *Also published in full at Secretary of Commonwealth's homepage www.state.ma.us/sec/ele/eleidx.htm
Michigan	N/A	Text of each proposal is published online at www.sos.state.mi.us/election/elecadmin/index.html
Mississippi	Secretary of State	Text Ballot title (Attorney General drafts) Ballot summary (Attorney General drafts) 300-word argument for and 300-word argument against Fiscal analysis (drafted by Legislature's chief budget officer) *Text of proposals are published online at www.sos.state.ms.us/elections/elections.html
Missouri	Secretary of State	Text "Plain language" explanation Fiscal impact statement (State Auditor drafts) *Also published in one newspaper in each county and online at www.sos.state.mo.us

Table 15. Voter Information Pamphlets (continued)		
	Who Prepares and Distributes	Contents of Pamphlet
Montana	Secretary of State prepares; county officials distribute	Title Text Impartial summary prepared by Secretary of State Fiscal impact estimate Proponent and opponent arguments and rebuttals *Also published online at sos.state.mt.us/css/ELB/Contents.asp
Nebraska	Secretary of State prepares; county clerks distribute	Title Text Arguments for and against (Secretary of State drafts) General Election Voter Information Pamphlet published on Secretary of State's Web site at www.sos.state.ne.us/elections/election.htm
Nevada	Secretary of State publishes; county clerks distribute	Title Text Summary Arguments for and against Fiscal impact statement *Also published online by Secretary of State at sos.state.nv.us/nvelection/
North Dakota	N/A	Text of proposals are published online at www.state.nd.us/sec/Elections/Elections.htm
Ohio	Secretary of State	Ballot title Impartial statement (prepared by Secretary of State) Explanation (prepared by Ohio Ballot Board) Arguments for and against Information also available online at www.state.oh.us/sos/
Oklahoma	House Research, Legal and Fiscal Divisions	Ballot title Background Text
Oregon	Secretary of State	Title Text Fiscal impact estimate Explanatory statement (written by committee of five citizens—two members from opponents selected by Secretary of State, two members appointed by proponent's committee, fifth member selected by other four) Arguments for and against *Also published in full on Secretary of State's homepage at www.sos.state.or.us/elections/other.info/irr.htm
South Dakota	Secretary of State	Ballot title Text Explanation and effect (prepared by Attorney General) Arguments pro and con *Also published in full on Secretary of State's homepage at www.state.sd.us/sos/sos.htm
Utah	Lt. Governor	Ballot number Ballot title Final vote cast by Legislature if it is a measure submitted by the Legislature Fiscal impact estimate Impartial analysis (prepared by Office of Legislative Research and General Counsel) Arguments and rebuttals in favor of and against Text *Also published online at elections.utah.gov/

Table 15. Voter Information Pamphlets (continued)

	Who Prepares and Distributes	Contents of Pamphlet
Washington	Secretary of State	Ballot number Official title Brief statement of law as it presently exists Brief statement explaining effect of proposed law (Attorney General prepares) Total votes for and against by House and Senate if measure has been passed by Legislature Arguments for and against Names and addresses of those writing arguments Full text of each measure *Also published in full on Secretary of State's homepage at www.secstate.wa.gov/elections/
Wyoming	N/A	Text of proposals published in full online at sos.wy.state.wy.us/election/election.htm

Source: National Conference of State Legislatures, May 2002.

Costs associated with the production, printing and distribution of voter information pamphlets vary from year to year (see table 16). Much of the cost depends upon how many pages are in the pamphlet, whether there is a need to print a supplemental ballot pamphlet (sometimes the case in California), and whether the pamphlet must be available in languages other than English.

Table 16. Costs of Voter Information Pamphlets (Selected States)

	Printing	Postage	Total Printed/Mailed	Sent to
Arizona (00)	\$443,376	\$190,000	1.3 million/1.1 million	Every registered voter household; county offices
California (02)*	\$4.3 million	\$2.7 million	12.8 million/10.9 million	See summary
Colorado (00)	\$283,000	\$192,000	1.6 million/1.6 million	Every registered voter household; county offices
Colorado (01)	\$96,000	\$209,000	1.6 million/1.6 million	Every registered voter household; county offices
Nebraska (02)	\$165 to \$250	\$335 to \$750	500/500	Each county office
Oregon (00)	\$1.9 million	\$870,417	1.6 million/1.6 million	Every residential household

* California amounts are per election (they have initiatives in both the primary and general elections).
Source: National Conference of State Legislatures, April 2002.

Each state requires the inclusion of different material, such as title, summary, and text of measures; arguments pro and con; and candidate information. In Nebraska, for instance, the ballot pamphlet contains information only about measures—candidates are not included. In Oregon, information about both measures and candidates is included, as well as voter registration materials (which qualified the pamphlet for nonprofit postage status and saved the state \$750,000 in postage). The Oregon ballot pamphlet for the November 2000 election comprised two volumes and more than 400 pages.

Postage costs are determined by state requirements for the distribution of pamphlets. The pamphlet is mailed only to county offices in Nebraska. In Colorado, it is mailed to each registered voter household. California also mails a pamphlet to each registered voter household, and to all city election officials, each member of the Legislature, the proponents of each ballot measure, public libraries, high schools, and institutions of higher learning.

In **Colorado** and **Nebraska**, the text and title of each measure also must be published in a newspaper. This is a significant expense in Nebraska, where the publication cost per measure is \$75,000.

Arizona, **California** and **Colorado** are required to print voter information pamphlets in languages other than English. California currently prints in five languages in addition to English, and Colorado and Arizona in two additional languages. Translation costs in Arizona for the November 2000 election were \$20,000, which included audio tapes in Navajo. In Colorado, translation costs for 2000 were \$25,000. California directly mails 278,519 translated versions of the voter information guide.

Virtually every commission that has studied the initiative process has recommended improved voter information pamphlets. Some of the specific recommendations include the following:

- Analyses of initiative measures should be written for the reading level of the average citizen (California League of Women Voters, 1999).
- The ballot pamphlet should clearly indicate the effect of a "yes" vote and a "no" vote (California League of Women Voters, 1999; Citizens' Commission on Ballot Initiatives, California, 1994).
- Related initiatives should be grouped together in the ballot pamphlet, and comparison charts should be used to facilitate voter comparison of similarities and differences (Citizens' Commission on Ballot Initiatives, California, 1994).
- The state should provide the citizens with readily accessible, in-depth information regarding the various issues surrounding each proposed constitutional amendment (Florida's Citizen Initiative Process, November 1994).

Case Study: Voter Information Pamphlets

Oregon

Oregon charges a fee of \$500 for the submission of arguments for or against initiative measures to be printed in the voters' pamphlet. This helps fund the printing and postage costs associated with the pamphlet. Note that it is possible to bypass the \$500 fee by submitting a petition bearing the signatures of 1,000 people who are eligible to vote on the measure.

Oregon also has an innovative manner of drafting the explanatory statement that is printed in the voters' pamphlet with each measure. A committee is created, made up of the following:

- Two people appointed by the chief proponents (in the case of a legislative referendum, one person is appointed by the president of the Senate and one by the speaker of the House)
- Two opponents are appointed by the Secretary of State

- A fifth member, selected by the two proponent and two opponent members of the committee.

The committee prepares a simple, impartial and understandable explanatory statement of no more than 500 words. The statement must be approved by at least three members of the committee.

The Secretary of State holds a public hearing to receive comments and suggested changes to the explanatory statement. The committee considers testimony at the hearing, and also considers written suggestions and comments, and issues a final explanatory statement no later than 90 days before the election. If the committee fails to issue a statement by the deadline, a statement drafted by the Legislative Counsel Committee is used instead. Any person who offered testimony at the public hearing may petition the Oregon Supreme Court to seek a different explanatory statement.

Voter Education on the Internet

All states except two provide online information about measures on the ballot and other initiative information. It also is becoming more common for states to list initiatives that were put on the ballot in past years and the outcome of each. Many states publish the voter information pamphlet in full online, including the title and text of each measure and arguments and rebuttals for and against the measure, an impartial summary of the measure, and a fiscal impact estimate.

The Media's Role in Voter Education

Scholarly research has shown that most people get their information about election issues from friends, family, special interest groups with which they identify, and the media. So, while voter information pamphlets printed by the state offer the most comprehensive and objective information, paid advertising and news media coverage of campaigns may have an equal or even stronger influence on voters. Others argue that the quality of the information available to voters is directly related to the integrity of the initiative process. Therefore, less comprehensive, shorter, purposefully inflammatory and potentially exaggerated media sources of election information could pose a threat to the initiative process.

Finally, some people argue that the use of media sources to educate voters unnecessarily increases the costs of running an initiative campaign. The process no longer is grassroots in nature but is, rather, a high-powered advertising campaign. Also, without disclosure requirements, it may be unclear to voters who is behind or sponsoring the advertising, leading to biased or only partially informed voter opinions.

Whatever one believes about the value and influence of paid campaign advertisements, however, the news media bears a responsibility to provide adequate and balanced coverage of initiative proposals.

Other Ideas for Reform

Some reform advocates have suggested that a list of individual and organizational endorsements included in the voter information pamphlet would be useful to voters, since they often use such cues to make their decisions about ballot measures. The Citizens' Commis-

sion on Ballot Initiatives (California, 1994) recommended this reform. Listing the position of legislators and the governor also has been suggested, for the same reason.

Recent Legislative Action

During the period of 1999 through 2002, legislatures in 11 states considered 39 bills addressing voter education on initiatives.

- **Montana** passed a bill that clarifies the contents of arguments prepared on ballot measures for inclusion in the voter information pamphlet.
- At the November 2002 election, **Florida** voters will decide if they want to add language to the state's constitution requiring the Legislature to draft a statute to require economic impact estimates on initiative constitutional amendments. Presently, Florida has no requirement for fiscal analysis of constitutional amendments.

7. FINANCIAL DISCLOSURE

Overview

The role of money in the initiative process has grown dramatically during the past decade. Although large contributions to initiative campaigns are not new and date to the turn of the last century, they are even larger and more common today than ever before. The I&R Institute reported in 1998 that issue committees nationwide spent almost \$400 million to support and oppose ballot measures. California led the way in 1998. According to the secretary of state, California committees spent just under \$193 million to support and oppose the 12 general election ballot measures. Combined spending for 214 statewide and legislative candidates in the 1998 general election totaled just under \$136 million for the general election, or about 70 percent of the spending on ballot measures.

Even more concerning than the extraordinary amounts of money raised and spent in initiative campaigns is the fact that such large sums of money come from so few sources. Large contributions overwhelmingly dominate initiative campaigns, and small, grassroots contributions make up a small percentage of the total money spent. Of course, whether that is a problem in and of itself is debatable; nevertheless, voters deserve to know who is funding initiative campaigns. If a measure qualifies for the ballot because one or two wealthy individuals or corporations underwrote the costs, voters should be able to consider that fact as they decide how to vote on the measure.

Unlike candidate campaigns in most states, in which contributions are limited, it is not uncommon for large contributions from a small handful of contributors to fund an initiative, from the drafting and signature-gathering phases through the campaign. A series of U.S. Supreme Court rulings, *Buckley vs. Valeo*, 424 U.S. 1 (1976), *National Bank of Boston vs. Bellotti*, 435 U.S. 1 (1978), and *Citizens Against Rent Control vs. City of Berkeley*, 454 U.S. 290 (1981) have clearly established the Court's view that limiting contributions and expenditures in initiative campaigns is an impermissible violation of First Amendment rights. The rationale behind the Court's rulings is that, although it is possible that a candidate could be corrupted by large contributions, it is impossible to corrupt an issue.

Recommendations

Recommendation 7.1: States should require financial disclosure by any individual or organization that spends or collects money over a threshold amount for or against a ballot measure.

Recommendation 7.2: After a title has been certified for an initiative measure, states should require that proponents and opponents of the initiative measure file a statement of organization as a ballot measure committee prior to accepting contributions or making expenditures.

Recommendation 7.3: States should make the disclosure requirements for initiative campaigns consistent with the disclosure requirements for candidate campaigns.

Recommendation 7.4: States should prohibit the use of public funds or resources to support or oppose an initiative measure. This should not preclude elected public officials from making statements advocating their position on an initiative measure.

In spite of the Court's reluctance to limit money in initiative campaigns, voters have consistently supported the idea. About half the states have at some time in their history attempted to limit spending in initiative campaigns, and voters have supported spending restrictions on initiative campaigns in at least two states—California and Alaska. Such limits have failed to stand up to judicial scrutiny, however.

Initiative Financial Disclosure Requirements

With contribution and expenditure limits out of the question, states are left with only one avenue of regulating money in initiative campaigns: disclosure. States have a responsibility to ensure that voters receive high-quality, transparent information about the sponsorship and financial support of initiative proponents and opponents. Such information not only minimizes abuse and manipulation of the initiative process, but also provides voters with key tools necessary for deciphering the sometimes veiled motives of initiative proponents. Voters cannot make a fully informed decision without campaign finance information about initiatives.

Recommendation 7.1: States should require financial disclosure by any individual or organization that spends or collects money over a threshold amount for or against a ballot measure.

Recommendation 7.2: After a title has been certified for an initiative measure, states should require that proponents and opponents of the initiative measure file a statement of organization as a ballot measure committee prior to accepting contributions or making expenditures.

Recommendation 7.3: States should make the disclosure requirements for initiative campaigns consistent with the disclosure requirements for candidate campaigns.

Recommendation 7.4: States should prohibit the use of public funds or resources to support or oppose an initiative measure. This should not preclude elected public officials from making statements advocating their position on an initiative measure.

The following commissions, individuals and organizations have recommended increasing disclosure requirements for initiative supporters and opponents:

Speaker's Commission on the California Initiative Process (2002),
David Broder, *Washington Post* (in testimony before the task force on Dec. 7, 2001),
California League of Women Voters (1999),
City Club of Portland, Oregon (1996),
Citizens' Commission on Ballot Initiatives (California, 1994),
Sacramento Bee (1994), and
Los Angeles Times (1990).

States use disclosure requirements in various phases of the initiative campaign. In some states, sponsors must disclose the amount of money they pay to petition circulators. In most states, initiative campaign committees are required to disclose their contributions and expenditures. They also are often required to disclose the names of contributors who give more than a threshold amount. A few states also require that initiative committees

identify out-of-state contributors, and at least 11 states require reporting by people or groups that make independent expenditures in support of or opposition to an initiative. Presently, no state requires that expenditures be reported for pre-certification activities, such as polling and drafting.

Every initiative state requires some degree of disclosure of contributions and expenditures by initiative campaigns; states vary in the degree of detail required in such reports and the frequency of reporting. In many states, the information is posted for the public on a Web site (usually the secretary of state's).

Effectiveness of Initiative Campaign Spending

Recent scholarly research suggests that high-spending campaigns often are no more successful in passing an initiative than are low-spending campaigns. Money is instrumental in changing voter opinion, however, when it is spent in opposition to a measure. Research suggests that high spending by opponents can be effective in defeating initiatives by creating a climate of confusion and uncertainty, under which most voters vote "no."

Recent Legislative Action

There has been significant legislative activity in the area of initiative campaign finance reform, as states scramble to equalize the disclosure requirements for initiative campaigns with those imposed on candidate campaigns. During the period of 1999 through 2002, legislatures in 15 states considered 34 bills addressing the issue of money in initiative campaigns. Highlights include the following.

- In 2001, **Arizona** passed HB 2389, requiring that committees that support or oppose ballot measures register before distributing campaign literature or running advertisements, that literature and ads disclose the political committee that funds them, and that ballot measure committees report contributions of \$10,000 or more within 24 hours of receiving them.
- **Montana** passed HB 468 in 1999, requiring the people who employ paid signature gatherers to file financial disclosure reports. The report must include the amount they pay to each signature gatherer. **Utah** also passed a similar measure in 1999.
- In 2001, **North Dakota** passed a pair of bills that tightened financial disclosure requirements for petition sponsors and extended the requirements for last-minute contributions to initiative campaigns to include contributions from political parties to initiative campaigns.
- **Oregon** passed a bill in 2001 that added a new report requirement prior to the May primary, and up to two additional reports if aggregate contributions or expenditures exceed \$2,000. Under prior law, proponents had to file just one report two weeks after the July deadline for turning in signatures.
- A 1999 bill passed in **Arkansas** requires that the use of state funds to support or oppose a ballot measure be reported to the Legislative Council if the expenditure exceeds \$100.

- A bill pending in **Massachusetts** would test the U.S. Supreme Court's ruling that prohibited limiting contributions to initiative campaigns. HB 3862 proposes limiting to \$100 contributions made for the promotion or defeat of ballot questions.
- A bill passed in 2002 in **Arizona** voids any signatures gathered before the proponents filed a statement of organization. It also requires that committees include their name, the serial number for the petition, and their support or opposition of a measure in their statement of organization. The bill is SB 1285.
- A failed bill in **Oklahoma** would have swept initiative campaigns into the existing campaign finance disclosure requirements by changing the definitions of "contribution" and "expenditure" to include any communication that clearly advocates the passage or defeat of a ballot measure.

8. VOTING ON INITIATIVES

Overview

In most states, present law permits the passage of an initiated law or constitutional amendment with a simple majority vote. Some states have implemented higher vote standards in an effort to ensure that initiatives truly have popular support before they are enacted.

When Initiatives Can Appear on the Ballot

In a handful of states, initiatives may appear on primary or special election ballots. Alaska, California, North Dakota and Oklahoma permit initiatives on primary and special election ballots. Six states also permit initiatives on odd-year ballots: Colorado (only revenue measures), Maine, Mississippi (note, however, that Mississippi's legislative elections also are held in odd years), Ohio, Oklahoma and Washington. Voter turnout typically is significantly lower at primary, odd-year and special elections than at regular general elections. When initiatives appear on those ballots, it means a small percentage of registered voters are permitted to dictate policy for the majority. It is preferable that initiatives be voted on by as many people as possible.

Recommendation 8.1: States should allow initiatives only on general election ballots.

This reform also was recommended by the California League of Women Voters in 1999, and the California Constitution Revision Commission in 1996.

Supermajority Vote Requirements for Constitutional Amendments

Most states require a simple majority vote to pass an initiative measure, whether statutory or constitutional in nature. By contrast, a supermajority vote of the legislature is necessary in almost all states to refer to the voters a measure to amend the constitution. All states except Delaware also require a vote of the people to pass a constitutional amendment. Supermajorities are intended to prevent a "tyranny of the minority," and also encourage

Recommendations

Recommendation 8.1: States should allow initiatives only on general election ballots.

Recommendation 8.2: States should adopt a requirement that creates a higher vote threshold for passage of a constitutional amendment initiative than for passage of a statutory initiative.

Recommendation 8.3: States should require that any initiative measure that imposes a special vote requirement for the passage of future measures must itself be adopted by the same special vote requirement.

Recommendation 8.4: States should ensure that statutory initiative measures require the same vote threshold for passage that is required of the legislature to enact the same type of statute.

Recommendation 8.5: States should adopt a procedure for determining which initiative measure prevails when two or more initiative measures approved by voters are in conflict.

deliberation and compromise as proponents attempt to gather enough votes to reach a supermajority. Supermajorities in the legislature often are required for constitutional amendments because of the belief that constitutions should not be amended without careful deliberation. Many states also require a supermajority vote of the legislature to increase taxes.

In most states, however, the initiative constitutional amendment process is not subject to the same supermajority vote requirement as the legislature. Some experts question why supermajorities are required of the legislature but not of the people. They point out that the initiative process lacks checks found in the legislature that promote compromise and consensus and suggest that a supermajority vote requirement might help to prevent the passage of initiatives that are supported only by a narrow majority.

Recommendation 8.2: States should adopt a requirement that creates a higher vote threshold for passage of a constitutional amendment initiative than for passage of a statutory initiative.

Requiring a supermajority vote to amend the constitution also was recommended by the City Club of Portland (1996).

Wyoming's supermajority requirement was challenged in 1997 by the proponents of an initiative that received a simple majority but failed to reach the supermajority requirement (*Brady vs. Ohman*, 105 F.3d 726 (1998)). The 10th Circuit Court of Appeals rejected the challenge and wrote that Wyoming had the right to prevent "... abuse of the initiated process and make it difficult for a relatively small special-interest group to enact its views into law." The case was appealed to the U.S. Supreme Court, which upheld the Circuit Court ruling.

According to Richard Ellis in *Democratic Delusions: The Initiative Process in America*, the effect of a supermajority passage requirement would have dramatic consequences. He analyzed the passage rates of initiatives in the five most active initiative states—Arizona, California, Colorado, Oregon and Washington—between 1980 and 2000, and found that an average of 60 percent of the initiatives on the ballot would have passed under a 55 percent supermajority requirement, 45 percent under a three-fifths requirement, and only 20 percent under a two-thirds requirement (pp. 128-9).

Table 17 summarizes supermajority requirements for passing initiative measures.

	Passage Requirement	Applies to
Florida	Any measure imposing a tax or fee not in place in November 1994 must receive a 2/3 vote in order to pass	Constitutional amendments
Illinois	Passage by 3/5 of those voting on the measure, or a majority of those voting in the election	Constitutional amendments
Massachusetts	Majority vote, provided that the total number of votes cast on the initiative equals at least 30% of the total votes cast in the election	Statutory initiatives and constitutional amendments
Mississippi	Majority vote, provided that the total number of votes cast on the initiative equals at least 40% of the total votes cast in the election.	Constitutional amendments

Table 17. Supermajority Initiative Passage Requirements (continued)

	Passage Requirement	Applies to
Nebraska	Majority vote, provided that the total number of votes cast on the initiative equals at least 35% of the total votes cast in the election.	Statutory initiatives and constitutional amendments
Nevada	An initiative constitutional amendment must receive a majority vote in two successive general elections in order to pass	Constitutional amendments
Oregon	Any measure that includes any proposed requirement for more than a majority of votes cast by the electorate to approve any change in law or government action must be approved by at least the same percentage of voters specified in the proposed voting requirement	Statutory initiatives
Washington	Majority vote, provided that the vote cast upon the measure equals at least one-third of the total votes cast at such election.	Statutory initiatives
Wyoming	Majority vote, provided that an amount in excess of 50% of those voting in the preceding general election must cast votes on an initiative or the initiative fails	Statutory initiatives

Source: National Conference of State Legislatures, January 2002.

Special Vote Requirements

In Oregon, any measure that includes any proposed requirement for more than a majority of votes cast by the electorate to approve any change in law or government action must be approved by at least the same percentage of voters specified in the proposed voting requirement. For instance, if an initiative proposes that all future tax increases must receive a 60 percent supermajority to pass, then that same initiative also must receive a 60 percent supermajority to pass. The Citizens' Commission on Ballot Initiatives (California, 1994) recommended this reform for California.

Recommendation 8.3: States should require that any initiative measure that imposes a special vote requirement for the passage of future measures must itself be adopted by the same special vote requirement.

In many states, legislatures must assemble a supermajority vote to pass certain types of statutory measures, in particular tax and fee increases. Such requirements are imposed because legislators and citizens feel that certain sections of law deserve special protection, and should not be easily or hastily changed. That assumption should extend to the initiative process as well.

Recommendation 8.4: States should ensure that statutory initiative measures require the same vote threshold for passage that is required of the legislature to enact the same type of statute.

A similar reform was proposed by the California Policy Seminar in 1991.

Case Study: Passage and Ratification of Constitutional Amendments

Nevada

Nevada's passage requirement for constitutional amendments has received attention recently. Since 1962, Nevada has required that a constitutional amendment be passed by a majority of the voters in two successive general elections. This is not an uncommon requirement to be placed on legislatures—Nevada requires its own Legislature to pass a constitutional amendment in two consecutive sessions before putting it on the ballot, as does Massachusetts. Ten other states also require the legislature to pass an amendment twice before it goes to the ballot, and 33 require either a single supermajority vote or a majority vote in two legislative sessions.

The advantage of the double-vote requirement is that it allows more time for voters to learn about and consider the measure. It also gives the legislature a chance to act on an issue if a measure receives substantial support in its first election. Most amendments in Nevada that receive a majority "yes" vote in the first election also pass the second election. However, at least three measures—two tax measures and a term limits measure—that passed in the first election but failed in the second.

Conflicting Measures

It has become a common technique for initiative proponents to qualify multiple or competing measures that address the same subject. Often, the motive for this is to confuse voters, ensuring that a particular measure—or all of the competing measures—will fail. It is important that states have a standard for determining how to respond when conflicting measures are passed by voters. A state without such a standard may someday find itself in a complicated and expensive court battle to sort out conflicting measures.

Recommendation 8.5: States should adopt a procedure for determining which initiative measure prevails when two or more initiative measures approved by voters are in conflict.

Legislatures have a variety of ways for dealing with the passage of laws that conflict with each other. It is common for a state to provide the code revisor with authority to rectify certain problems without requiring further action. Commonly, revisors may not alter the sense, meaning or effect of an act, but may renumber and rearrange sections, transfer or divide sections, change capitalization, correct manifest typographical and grammatical errors, and make other such minor changes. States also may provide a series of rules to help resolve conflicts. For instance, if amendments to the same statute are enacted without reference to one another, they often are harmonized to give effect to each, to the extent possible. If conflicting amendments or statutes are irreconcilable, the most recently enacted amendment or statute generally prevails.

Other Ideas for Reform

Sunset Provisions

Many states currently use a sunset process. In these states, some laws contain an automatic termination provision, meaning the law automatically terminates unless it is reauthorized.

It is even more common for states to subject certain agencies to termination unless they are reauthorized. No state currently requires a sunset provision for initiative measures.

It has been suggested that requiring a sunset provision on initiative measures would provide an opportunity and a formal venue for the legislature and others to publicly discuss the effects of an initiative. If an initiative had unintended consequences, they would come up during the sunset process, and the legislature might have the opportunity to show voters why the initiated law needed amendment. Arizona has considered bills that would impose a sunset provision on initiated laws, and it was recommended by the California League of Women Voters in its 1999 position statement on the initiative process.

Supermajorities

Several states require a particular type of supermajority vote for ballot measures (see Table 17). In these states, not only must a majority of votes cast on the measure be affirmative, but a certain percentage of votes cast in the election must be in favor of the measure. For instance, in Massachusetts, an initiative must receive a simple majority, and the votes in favor of the initiative must be equal to at least 30 percent of the total votes cast in the election. Such restrictions are intended to address the problem of voters who choose not to cast a vote on an initiative. In effect, such restrictions count the lack of any vote as a "no" vote. They presume that a non-vote is an indication of the voter's preference to maintain the status quo in favor of any change. Opponents of this idea say that it creates a disadvantage for measures that appear later on the ballot, and that it is unfair because the same requirement is not imposed on candidate elections.

Recent Legislative Action

Eight states have considered changing the passage requirements for initiative measures since 1999. Proposals that were considered but not enacted include the following.

- Requiring a two-thirds vote to pass an initiative that changes state revenues and for constitutional amendments (considered in Arizona, California).
- Requiring a 60 percent vote on initiatives resulting in a loss of state revenues of more than \$100 million (considered in Mississippi).
- Requiring a two-thirds vote on conservation initiatives (considered in Missouri).
- Requiring that constitutional amendments be passed at two consecutive general elections before taking effect (failed on the ballot in 2000 in Nebraska).
- Requiring a three-fifths vote to pass a constitutional amendment (considered in Oregon).
- Requiring that the ballot title for an initiative that contains any supermajority voting requirement also contain a statement indicating that the measure will allow a minority of voters to veto the will of the majority in certain elections (considered in Oregon).

- Establishing a method for the Legislature to determine if an initiative measure has substantial fiscal impact; requiring measures that are determined to have a substantial fiscal impact receive a vote of 60 percent to pass (considered in **Washington**).
- Requiring a two-thirds vote to pass an initiative that allows, limits or prohibits the taking of wildlife (considered in **Wyoming**).

APPENDIX A. THE INITIATIVE STATES

	Statutory Initiative	Constitutional Initiative
Alaska	D*	None
Arizona	D	D
Arkansas	D	D
California	D	D
Colorado	D	D
Florida	None	D
Idaho	D	None
Illinois	None	D
Maine	I	None
Massachusetts	I	I
Michigan	I	D
Mississippi	None	I
Missouri	D	D
Montana	D	D
Nebraska	D	D
Nevada	I	D
North Dakota	D	D
Ohio	I	D
Oklahoma	D	D
Oregon	D	D
South Dakota	D	D
Utah	D&I	None
Washington	D&I	None
Wyoming	D*	None

D—*Direct Initiative*: proposals that qualify go directly on the ballot.

I—*Indirect Initiative*: proposals are submitted to the legislature, which has an opportunity to act on the proposed legislation. Depending on the state, the initiative question may go on the ballot if the legislature rejects it, submits a different proposal or takes no action.

D*—Alaska and Wyoming's initiative processes exhibit characteristics of both the direct and indirect initiative. Instead of requiring that an initiative be submitted to the legislature for action (as in the indirect process), they require only that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned. The intent is to give the legislature an opportunity to address the issue in the proposed initiative, should it choose to do so. The initiative is not formally submitted to the legislature.

Source: National Conference of State Legislatures, January 2002.

APPENDIX B. OTHER INITIATIVE REFORM COMMISSIONS

- California Commission on Campaign Financing. *Democracy by Initiative: Shaping California's Fourth Branch of Government*. Los Angeles: Center for Responsive Government, 1992.
- California Constitution Revision Commission. *Recommendations of the California Constitution Revision Commission to the Governor and the Legislature*, August 1996.
- California League of Women Voters. Positions on the Initiative and Referendum Process. <http://ca.lwv.org/lwvc/issues/gov/initref.html>, 1999.
- California Policy Seminar. *Improving the California Initiative Process: Options for Change*, November 1991.
- Citizen's Commission on Ballot Initiatives. A. Alan Post, Chairperson. *Report and Recommendations on the Statewide Initiative Process*, January 1994.
- City Club of Portland. *The Initiative and Referendum in Oregon*, February 1996.
- Committee on Ethics and Elections, Florida House of Representatives. *Florida's Citizen Initiative Process*, November 1994.
- League of Women Voters of Oregon Education Fund. *Oregon's Initiative System: Current Issues*, Spring 2001.
- Nebraska Petition Process Task Force: Majority and Minority Reports. Senator DiAnna Schimek, Chair, May 1994.
- Simmons, Charlene Wear. *California's Statewide Initiative Process*. Sacramento: California Research Bureau, California State Library, May 1997. (Contains collection of reforms proposed by California newspapers.)
- The Speaker's Commission on the California Initiative Process. David Abel, Chairman. *Final Report*, 2002.

GLOSSARY

Advisory Initiative—A non-binding proposed statute and/or constitutional amendment that is initiated by citizens and placed on the ballot for a popular vote after a petition process.

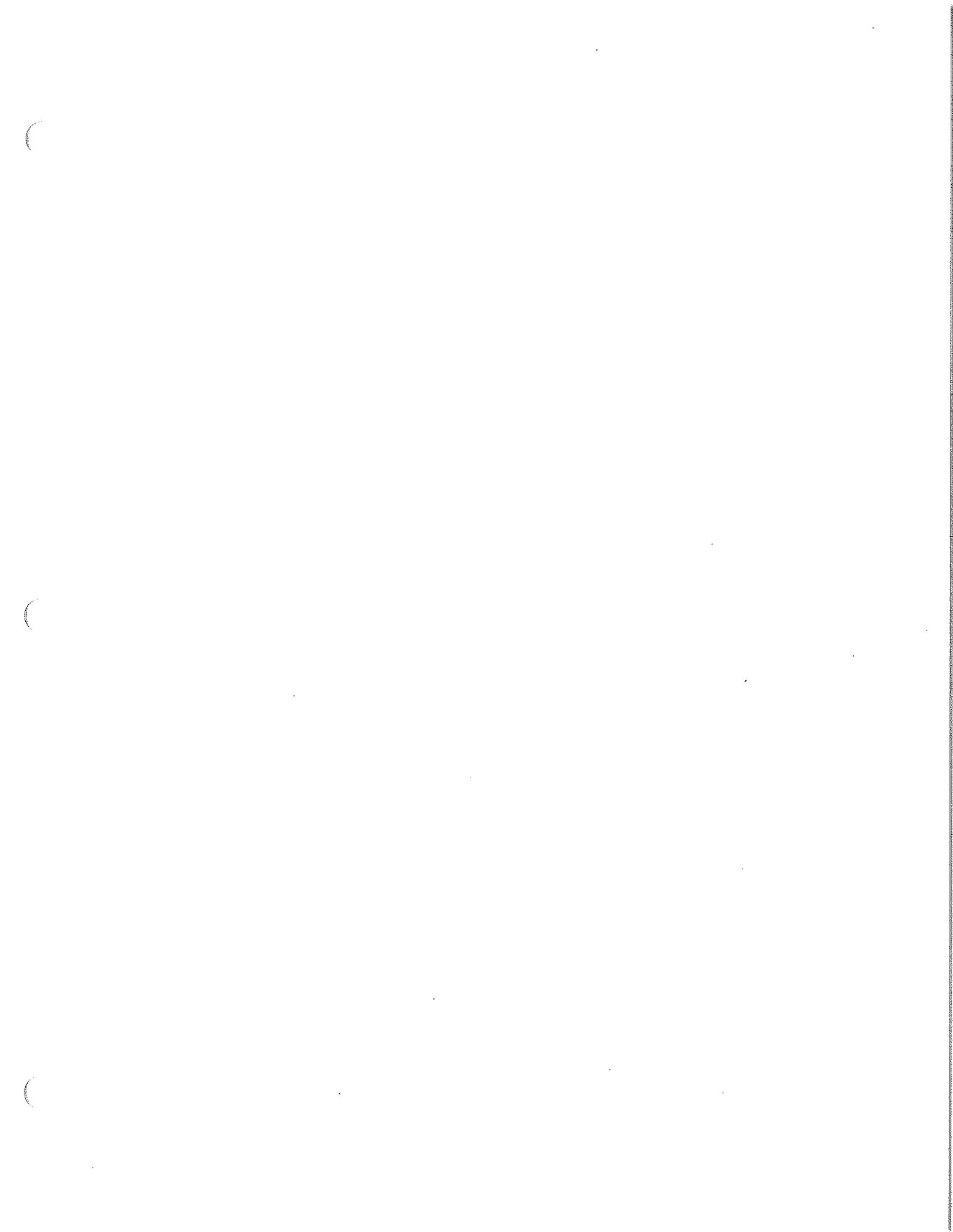
Direct Initiative—A proposed statute and/or constitutional amendment initiated by citizens and placed on the ballot for a popular vote after a petition process. If passed by the voters, the statute or constitutional amendment takes effect without legislative or gubernatorial action.

General Policy Initiative—A citizen-initiated proposal for a statute and/or constitutional amendment that is general in nature, and does not contain specific constitutional or statutory language. If voters pass a general policy initiative, the legislature is required to take action to develop and implement the policy.

Indirect Initiative—A citizen-initiated proposal for a statute and/or constitutional amendment that is first submitted to the legislature, which has an opportunity to act on the proposed legislation. The initiative question may be placed on the ballot if the legislature rejects it, submits a different proposal or takes no action.

Legislative Referendum/Referral—A proposed or newly enacted law or proposed constitutional amendment placed on the ballot by the legislature for voter approval.

Popular Referendum—A process by which voters may petition to place a recent enactment of the legislature on the ballot for approval or rejection by the people.



REFERENCES

- Allswang, John M. *The Initiative and Referendum in California, 1898–1998*. Palo Alto: Stanford University Press, 2000.
- Boes, Mette A. *The Supermajority Vote Provision to Ratify Constitutional Initiatives: Would it Restore the Process to the People?* Master's thesis, University of Colorado-Denver, 2002.
- Bowler, Shaun, Todd Donovan and Caroline J. Tolbert (eds.). *Citizens as Legislators: Direct Democracy in the United States*. Columbus: Ohio State University, 1998.
- Broder, David S. *Democracy Derailed: Initiative Campaigns and the Power of Money*. Harcourt Brace, 2000.
- California Commission on Campaign Financing. *Democracy by Initiative: Shaping California's Fourth Branch of Government*. Los Angeles: Center for Responsive Government, 1992.
- Cronin, Thomas E. *Direct Democracy: The Politics of Initiative, Referendum, and Recall*. Cambridge: Harvard University Press, 1989.
- Dinan, John J. *Keeping the People's Liberties: Legislators, Citizens and Judges as Guardians of Rights*. Lawrence: University Press of Kansas, 1998.
- DuBois, Philip L., and Floyd Feeney. *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.
- . *Improving the California Initiative Process: Options for Change*. (Berkeley: The California Policy Seminar, University of California, 1992.
- Ellis, Richard J. *Democratic Delusions: The Initiative Process in America*. Lawrence: University Press of Kansas, 2002.
- Gerber, Elisabeth R. *Stealing the Initiative: How State Government Responds to Direct Democracy*. Upper Saddle River, N.J.: Prentice Hall, 2001.
- . *The Populist Paradox*. Princeton, N.J.: Princeton University Press, 1999.
- Graham, Virginia. *A Compilation of Statewide Initiative Proposals Appearing on Ballots Through 1976*. Washington, D.C.: Library of Congress, 1978.

- Halstead, T.J. *State regulation of the initiative process : background and analysis of issues in Buckley vs. American Constitutional Law Foundation, Inc., et al.* Washington, D.C.: Congressional Research Service, Library of Congress, 1999.
- Haskell, John. *Direct Democracy or Representative Government? Dispelling the Populist Myth.* Boulder, Colo.: Westview Press, 2001.
- Magleby, David B. *Direct Legislation: Voting on Ballot Propositions in the United States.* Baltimore: Johns Hopkins University Press, 1984.
- McGuigan, Patrick B. *The Politics of Direct Democracy in the 1980s: Case Studies in Popular Decision Making.* Washington, D.C.: Free Congress Research and Education Foundation, 1985.
- Oakley, Lisa and Thomas Neale. *Citizen Initiative Proposals Appearing on State Ballots, 1976-1992.* Washington, D.C.: Library of Congress, 1995.
- Ranney, Austin. *The Referendum Device.* Washington, DC: American Enterprise Institute for Public Policy Research, 1981.
- Rosenthal, Alan. *The Decline of Representative Democracy: Process, Participation and Power in State Legislatures.* Washington, D.C.: Congressional Quarterly Press, 1998.
- Schmidt, David D. *Citizen Lawmakers: The Ballot Initiative Revolution.* Philadelphia: Temple University Press, 1989.
- Schrag, Peter. *Paradise Lost: California's Experience, America's Future.* New York: The New Press, 1998.
- Schultz, Jim. *The Initiative Cookbook: Recipes and Stories from California's Ballot Wars.* San Francisco: Democracy Center, 1998.
- Smith, Daniel A. *Tax Crusaders and the Politics of Direct Democracy.* New York: Routledge, 1998.
- Waters, M. Dane (ed.). *The Battle Over Citizen Lawmaking.* Durham: Carolina Academic Press, 2001.
- Zimmerman, Joseph F. *The Initiative: Citizen Lawmaking.* Westport, Conn.: Praeger, 1999.
- . *The Recall: Tribunal of the People.* Westport, Conn.: Praeger, 1997.
- . *The Referendum: The People Decide Public Policy.* Westport, Conn.: Praeger, 2001.



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Statistical Tables of Amendments Proposed and Adopted

These tables are updated versions of tables contained in "The Ohio State Constitution, A Reference Guide", Steven H. Steinglass & Gino J. Scarselli, KFO401 1851 .A6 S74 2004

Amendments Proposed and Adopted in 1912, pre and post 1912

	Proposed	Adopted	% Approved	Amendments per year
1852-1911	40*	11	27.5	0.18
1912	42	34	81.0	34.0
1913-2014	219	121	55.0	1.2

*This includes the three proposed amendments submitted separately to the voters in 1874 and rejected by them along with the proposed Constitution of 1874.

"The 1912 Constitutional Convention is an important dividing line in Ohio constitutional history. From the adoption of Ohio's second constitution in 1851 to the 1912 Constitutional Convention, the voters amended the Ohio Constitution only eleven times with the most significant amendment being the 1903 provision giving the governor the veto power. In 1912 alone, however, the voters approved 34 amendments, more than three times as many amendments as they approved in the sixty years following the adoption of the 1851 Constitution. The 1912 Constitutional Convention also made the process of amending the constitution less difficult, and in the following one hundred years the voters approved 109 of 198** proposed amendments." (Updated excerpt from Steinglass, Steven H. and Scarselli, Gino J. The Ohio State Constitution : A Reference Guide . Westport, Conn. : Praeger, 2004, p. 42.)

** These numbers were as of 2004. As of 2014, voters approved 121 of 219 proposed amendments.

Amendments Proposed by General Assembly ("GA") and Initiative and Adopted 1913-2014

Decade	GA	GA Pass	GA Fail	Initiative	Initiative Pass	Initiative Fail	Total	Pass	Fail
1913-1919	7	2	5	14	4	10	21	6	15
1920s	11	4	7	5	0	5	16	4	12
1930s	5	3	2	8	3	5	13	6	7
1940s	7	6	1	2	2	0	9	8	1
1950s	23	18	5	1	0	1	24	18	6
1960s	22	16	6	1	0	1	23	16	7
1970s	42	28	14	11	1	10	53	29	24
1980s	11	6	5	7	0	7	18	6	12
1990s	11	10	1	6	4	2	17	14	3
2000s	8	7	1	11	3	8	19	10	9
2010s	4	3	1	2	1	1	6	4	2
Total	151	103	48	68	18	50	219	121	98

This chart demonstrates that the use of the initiative to propose constitutional amendments was more common in 1913-1919 the period immediately after the initiative petition came into being.

"The pace of constitutional change since 1912 has varied significantly with the most amendments being adopted in the 1950s, 1960s, and 1970s when the voters approved 63 out of 100 proposed amendments. By far, more amendments were proposed and adopted in the 1970s than in any other decade in large part due to the creation of the Ohio Constitutional Revision Commission by the General Assembly to review and recommend changes to the constitution."

Excerpt from Steinglass, Steven H. and Scarselli, Gino J. The Ohio State Constitution : A Reference Guide . Westport, Conn. : Praeger, 2004, p. 54.

Number of Approved Amendments by Article

Article	Total Amendments passed 1913-2014*
I. Bill of Rights	4
II. Legislative	16
III. Executive	9
IV. Judicial	16
V. Elective Franchise	10
VI. Education	4
VII. Public Institutions	1
VIII. Public Debt	27
IX. Militia	3
X. County and Townships	3
XI. Apportionment	3
XII. Finance and Taxation	14
XIII. Corporations	1
XIV. Jurisprudence (Repealed), but adopted as Agriculture in 2009.	2
XV. Miscellaneous	12
XVI. Amendments	1
XVII. Elections	5
XVIII. Municipal Corporations	2

*The number of amendments in this table does not match the number of amendments adopted during this period since some amendments affected more than one article.