

The California Initiative Process: Background and Perspective

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Preface

The Public Policy Institute of California's research agenda focuses on three program areas: population, economy, and governance and public finance. One of the governance issues under continuous discussion is the initiative process and the role it plays in the public policy process. Over the last decade, there were more initiatives circulated, placed on the ballot, and approved by the voters than in any other decade in the state's history. Political commentators, activists, and elected officials all share the view that the initiative process will remain part of California's system of government. However, there is continual debate over the processes of the initiative and its relationship to the legislature and the governor. Various groups, inside and outside of state government, have suggested myriad changes to the initiative process.

The initiative process itself has undergone major changes over the last 25 years. Today, one could describe it as the "initiative industrial complex," given the number of companies providing services such as signature gathering, legal services, and campaign consulting that are now integral and apparently essential to the process. The days of romanticizing it as the "citizens'" initiative process are long over.

The initiative process is a year-around process not limited to the two-year election cycle. Four initiatives are currently in the process. Initiatives in circulation include a measure that would place a property tax allocation formula in the constitution, replacing the power of the legislature to allocate the property tax, a measure to allow the legislature to provide a property tax exemption for the home of a firefighter or police officer if the person died or was disabled as a result of an injury sustained or disease contracted while on duty, a measure allowing the use of the Internet for signature gathering, and a measure dealing with gambling. If they qualify, they will be placed on the March 2002 ballot.

Over the last 15 years, various groups have reviewed the initiative process and often questioned the relationship between it and the legislative/executive decisionmaking process. The California model is a fundamentally different form of policymaking from the legislative/executive policy process. Among the other twenty-three states that have an initiative process, some have a blend of the legislative/executive and the initiative process.

PPIC was asked by Assembly Speaker Robert Hertzberg to provide background material for the Commission on the California Initiative Process on issues surrounding the California model and to review the processes of other states. The purpose of this background material is to provide perspective for the Commission as it begins its work of reviewing the initiative process.

The breadth of material contained in this background report would not have been possible without the help of Mike Boduszynski, a tireless graduate student in political science at the University of California at Berkeley.

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1. Introduction

In 1911, an amendment to the California Constitution established the California initiative process, giving voters the right to enact legislation. In other words, it gave the voters a power equal to the power of legislative branch of state government. This movement toward direct democracy was part of increasing popular demand across the country in the late 1800s for social and political reform. In California, progressives concerned about the influence that monied interests, such as the Southern Pacific Railroad, exercised over the legislature led the movement. In the Midwest, the populist movement included an effort by citizens to establish the initiative and referendum process to deal with government corruption. As the groundswell grew, in 1897, Nebraska allowed cities to include the initiative and referendum in their charters. By the end of the 19th century, states were amending their constitutions to include the initiative and referendum power. Currently there are 24 states that have some form of initiative and referendum procedures.

The initiative and referendum powers are contained in Article II of the California Constitution. It states: "The initiative is the power of the electors to propose statutes and amendments to the constitution and to adopt or reject them." Article II Section 8 provides the following:

An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the constitution, of the votes for all candidates for governor at the last gubernatorial election.

The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The governor may call a special statewide election for the measure.

An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.

The role of the judiciary is limited to hearing challenges to proposed or approved initiatives, as well as settling disputes that may arise from the official title, ballot pamphlet, or other related material.

As originally instituted in California, there were two initiative processes available: the direct initiative and the indirect initiative. The direct initiative process allows voters to place a proposed statute or an amendment to the Constitution directly on the ballot. If a majority of the

voters approve the measure, it becomes law. The direct initiative as practiced in California is designed to bypass the legislative process. As noted later, the legislature's only role in the direct initiative is to hold a legislative committee hearing 30 days prior to the election.

The indirect initiative allows the proponent of a statutory initiative to gather signatures and present the measure to the legislature for enactment. If the measure is enacted, it becomes law and the measure is not placed on the ballot. This process was in effect from 1912 to 1966. However, this parallel process was seldom used. One of the reasons for its lack of use was the legislative schedule. Prior to 1964, the legislature met in biennium session: The first year was devoted solely to the budget and the second year devoted to legislation. This gave proponents a short period of time every two years to use the indirect process. In the early 1960s, the California Constitution Revision Commission recommended that the provision be deleted from the Constitution due to lack of use. It was repealed in 1966.

By its sheer volume, the initiative process has been a part of California policymaking since its adoption in 1911. The first measures appeared on a California statewide ballot in 1914. The following is a brief look at the California experience.

Figure 1 shows the total number of measures circulated, how many qualified, and how many passed. Over time, only one quarter of the initiatives circulated for signature have actually qualified for the ballot and, of those that qualified, only a third were approved by the voters. Of those approved, 32 were constitutional amendments, 57 were statutory initiatives, and 5 contained both constitutional and statutory provisions.

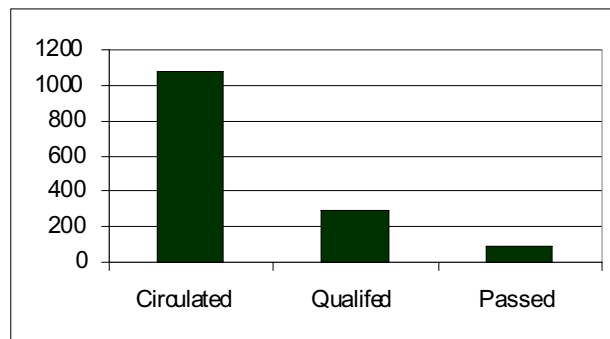


Figure 1--Initiative Ballot Measures, 1912 to March 2000

As Figure 2 indicates, the use pattern of the initiative process has changed over time. Since the 1970s, the number of measures circulated for signature has grown considerably while the percentage of those qualifying and approved has fallen.

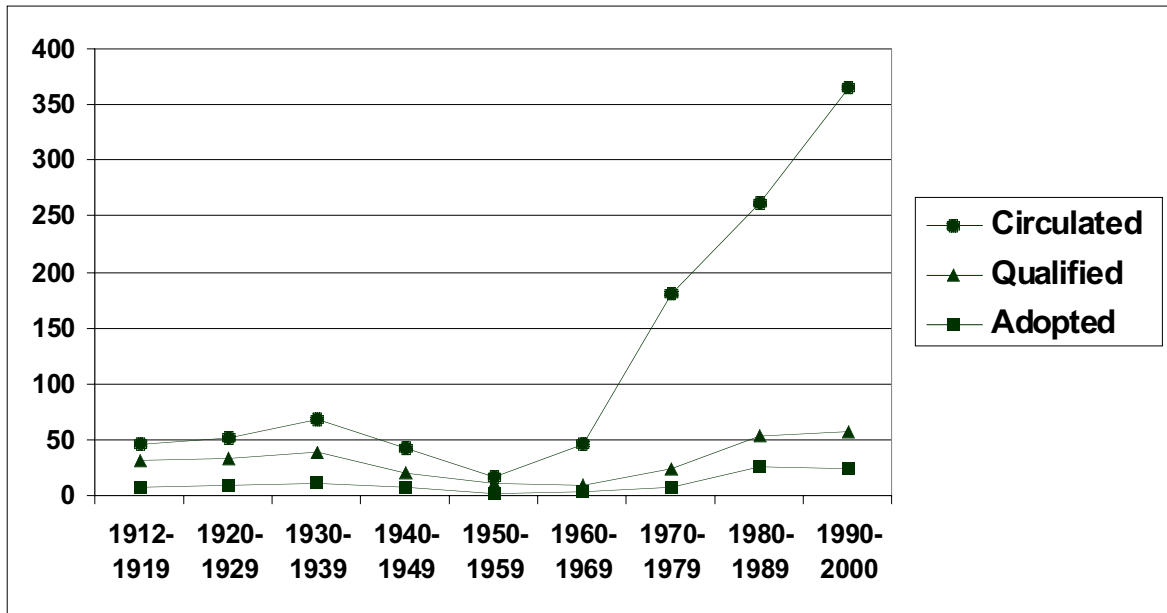


Figure 2--Initiative Measures Circulated, Qualified, and Adopted, 1912-2000

Table 1 shows that over the last 88 years, no single issue has dominated the public's attention in the initiative process. Several constants can be found. For example, tax measures, whether raising or lowering taxes, have always been a part of the initiative process. For another example, even with the wide variety of issues that the voters are asked to decide, the decreasing percentage of measures qualified and approved suggests that they remain skeptical.

Table 1
Initiative Measures By Subject Matter, 1912–2000

Subject	Number of Initiatives		
	Circulated	Qualified	Approved
Bond Measures	25	12	4
Campaign Reform	27	9	5
Courts, Law & Order	90	18	9
Education	93	21	9
State Governance	52	10	4
Elections	63	15	8
Energy	21	6	0
Environmental Issues	72	24	9
Fiscal Matters	50	14	5
Gambling	70	11	4
Government Regulation	113	21	6
Health/Medical Science	92	29	6
Labor Issues	53	17	4
Local Government	7	4	1
Prohibition, Drugs, Alcohol	73	20	5
Reapportionment	27	9	0
Social Services	42	15	6
Societal Issues	74	12	6
Taxation	190	45	11

SOURCE: Secretary of State, *A History of the California Initiative Process*, August 1998. (Updated by the author)

NOTE: Some ballot measures covered more than one subject.

2. The Direct Initiative

The direct initiative process practiced in California is relatively simple and straightforward. A proponent drafts a statute or a proposed amendment to the constitution and submits it to the Secretary of State along with a fee of \$200. It is then submitted to the Attorney General for the purpose of providing a title and summary of the proposed initiative. The Office of the Legislative Analyst and the Department of Finance are asked for a fiscal analysis to provide an estimate of the fiscal effect of the measure for the summary. The Attorney General is not authorized to make any changes to the proposal. The Secretary of State then approves it for circulation.

The proponent has 150 days to gather signatures of registered voters in the state. The number of signatures required varies according to the kind of initiative and the number of votes cast for all candidates for governor in the last gubernatorial election. A *statutory initiative* must get signatures equal to 5 percent of that number. The current requirement for a statutory initiative is 419,260 signatures. An *initiative constitutional amendment* must get signatures equal to 8 percent of the vote number. The current requirement for a constitutional amendment is 670,816 signatures.

The signatures are submitted to county elections officials for a determination of the validity of the signatures. If the Secretary of State determines that there are sufficient valid signatures, the measure will be placed on the ballot for the next general election that is held no longer than 131 days after it qualifies or for a special election held before that general election.

An initiative measure may not include more than a single subject. There is no definition contained in the constitution. The matter of what constitutes a "single" subject has been left to the courts.

3. The Indirect Initiative

Over the last several decades little attention has been given to the indirect initiative. As noted earlier the indirect initiative was part of the California initiative process for 55 years. The procedure applied to statutory initiatives and gave an opportunity for the legislature to deal with the issue presented by the proponents of the initiative. The signature requirement was reduced from 8 to 5 percent of the total votes cast for governor at the last gubernatorial election. This was an incentive to use the indirect initiative process. If the petition contained the requisite number of valid signatures, it was transmitted by the Secretary of State to the legislature. The legislature had 40 days to reject or enact without change the proposed law. If the legislature failed to act within the prescribed time period or rejected the proposed measure, the Secretary of State placed the proposal on the ballot of the next general election. If the legislature approved the proposal and the governor signed it, the measure become law.

The indirect initiative process was used only four times in the state's history. Only once was a measure approved by the legislature. The three measures that the legislature reviewed but did not approve were submitted to the voters. The voters defeated all three measures. The Constitution Revision Commission impaneled in the 1960s reviewed the use of the indirect initiative and recommended its repeal. The voters agreed and the measure was deleted from the Constitution in 1966.

As noted earlier, one of the reasons for the lack of use might have been the timing of statewide elections and the legislative sessions. During this period of time, the legislature had a biennial session. In the first year, only the budget could be considered. Legislation was considered in the second year, which was also the year of the statewide election. As a consequence, the legislature had only a 40-day window at the beginning of the election year to consider the measure. This left little time for the proponents and the legislature to consider the issue. It appears that it was simply easier to avoid the legislature and gather the required number of signatures and submit the measure to the Secretary of State.

Ten other states have various indirect initiative systems. The chart on the next page illustrates their procedures.

The Indirect Initiative: A State Comparison

State	Front-end signature gathering	Discretion of legislature during review process	Process of approval/disapproval	Kinds of legislation	Post-enactment legislative discretion
Alaska	10% of those who voted in the preceding election and resident in at least 2/3 of the election districts of the state. ¹			Statutes only ²	Legislature can amend initiatives and repeal them after two years.
Maine	10% of the votes cast for a governor.	Legislature can change content.	If rejected by legislature, goes on ballot. If changed by legislature, both the original and changed versions go on ballot.	Statutes only.	Legislature can both repeal and amend initiatives.
Massachusetts	3% of the entire vote cast for governor. No more than _ of the signatures may come from any one county.	Petitions can be amended by _ affirmative majority vote by House and Senate.	For statutes, if the petition is rejected by the Legislature (General Court) or if it fails to act, the measure may be amended by a majority of the ten original signers, and after collecting additional signatures, it may be placed directly on the ballot. ³	Constitutional amendments and statutes ⁴	Legislature can propose a substitute and/or repeal and amend initiatives. Amendments to petitions must be considered by a joint session of the Legislature.
Michigan	8% of the total vote cast for governor in the last election.	Can approve or reject, but cannot amend. However, can submit alternative to ballot.	Any law proposed by initiative petition must be enacted or rejected by the legislature without change or amendment within 40 days. If rejected can be submitted to ballot.	Statutes only.	Legislature can both amend and repeal initiatives.
Mississippi	12% of all votes for Governor ⁵	Can amend or reject.	If rejected, automatically submitted to ballot. If amended, both amended version and original submitted to ballot. ⁶	Constitutional amendments only.	Legislature can both amend and repeal initiatives.
Nevada	10% of the number of voters who voted in the last preceding general election in not less than 75% of the counties in the state.		If the statute or amendment to a statute is rejected by the legislature or if no action is taken in 40 days, it is put to a vote of the voters.	Statutes only.	Legislature can only repeal or amend after three years of enactment. Before then, no changes allowed.

Ohio	3% of the total vote cast for the office of governor at the last election.	Can be amended.	If the General Assembly fails to enact the proposed statute, passes it in amended form, or takes no action within four months from the time it was received by the legislature, supplemental petitions may be circulated by petitioners demanding that the proposal be on the ballot. This new petition must be signed by 3% of the total voting for governor.	Statutes only.	Legislature can both repeal and amend initiatives.
Utah	5% of the cumulative total of all votes cast for governor at the last regular general election in which a governor was elected in at least 20 of 29 counties.	The proposed law can only be enacted or rejected without change or amendment by the legislature.	If any law proposed is not enacted by the legislature, it is submitted to a vote of the people at the next general election if additional signatures to bring the total up to 10% are obtained.	Statutes only.	Legislature can both amend and repeal initiatives.
Washington	8% of the votes cast for governor in the last election.	The Legislature can approve an amended version of the proposed legislation, in which case both the amended version and the original proposal must be placed on the next state general election ballot. ⁷	Legislature can adopt law, in which case it becomes law without a vote of the people. Can refuse or reject it, in which case the initiative must be placed on the ballot at the next state general election. ⁸	Statutes only.	After enactment, the legislature can repeal or amend an initiative by a _ vote of each house during the first two years of enactment, majority vote thereafter.
Wyoming	15% of those voting in the last election and residing in at least 2/3 of the counties.			Statutes only.	Legislature can amend initiatives, and repeal them after 2 years.

¹ Unsure if this is for indirect or direct.

² Unsure if this applies to indirect as well.

³ An infrequently used process.

⁴ However, it has been the history of the state to propose statutory change only because when an amendment is submitted to the Legislature, they do not have to act and there is no provision to collect additional signatures and place the item on the ballot.

⁵ The signatures of the qualified electors from any congressional district cannot exceed 1/5 of the total number of signatures required to qualify an initiative petition for placement upon the ballot.

⁶ Constitutional amendments become part of the constitution and are thus only alterable by the legislature through regular constitutional procedures, any changes of which must be approved by popular vote.

⁷ Procedures for Filing Initiatives and Referendums in Washington State.

⁸ Ibid.

4. Reform Proposals

Over the last decade a variety of groups have studied and recommended changes in the initiative process. This section summarizes the recommendations of five such groups.

California Constitution Revision Commission, January 1996

The California Constitution Revision Commission was created by legislation carried by Senator Lucy Killea (SB 16, Chapter 1234 of the Statutes of 1993). The 23-member commission was created for the purpose of reviewing and making recommendations on major governance issues facing the state, including the organization of the executive branch, the legislative branch, and the initiative process. In its review of the initiative process, the commission's goal was to improve accountability by providing for greater voter participation in the process of amending the Constitution, and increasing the involvement of the legislature in the initiative process.

The commission made the following recommendations regarding the initiative process.

1. Constitutional Amendments on the November Ballot

Place all proposed amendments to the Constitution on the November ballot. Constitutional amendments proposed by the legislature could be placed on primary or special election ballots with a two-thirds vote of the legislature and gubernatorial approval.

2. Amending Statutory Initiatives

Allow the legislature, with gubernatorial approval, to amend statutory initiatives after they are in effect for four years.

3. Legislative Review and Enactment of Statutory and Constitutional Initiatives

Create a legislative process for the review, amendment, and enactment of proposed initiatives. A statutory initiative measure which has qualified for the ballot would not be placed on the ballot if the legislature enacts a measure that is "substantially the same and furthers the purposes" of the proposal; the determination as to what is "substantially the same and furthers the purposes" would be made by the Attorney General and the Secretary of State. A similar process would be used for initiative constitutional amendments. The legislature could place a similar measure on the ballot. Both statutory and constitutional amendment processes would involve consultation with the proponents.

Citizen's Commission on Ballot Initiatives, January 1994

The Citizens Commission on Ballot Initiatives was created by Assembly Concurrent Resolution 13 (Resolution Chapter 120, 1991). Assembly member Jim Costa, who now serves in the State Senate, carried the resolution. The 15-member commission was asked to review, study and evaluate the statewide initiative process and, based on its findings, submit a report to the legislature, which it did in January 1994. A summary of its recommendations follows.

1. Circulation Issues

- a. Extend the period allowed for circulation of initiative petitions from 150 to 180 days.
- b. Provide additional contribution disclosure during the circulation period.
- c. Include in the petition a notice that the proponents may amend the initiative before it appears on the ballot if the amendments are consistent with its purpose and intent.
- d. Improve signature verification procedures.
- e. Simplify the petition description.

2. Post-Qualification, Pre-Election Issues

- a. Legislative review and revisions by proponents following ballot qualification prior to the election.

Hold legislative hearings within 10 days after an initiative qualifies for the ballot.

Give the legislature the opportunity to propose and enact a similar proposal that may satisfy the proponents and eliminate the need for the initiative measure appearing on the ballot.

Allow proponents to amend an initiative within seven days of the legislative hearing. If the legislature fails to hold a hearing, proponents should be able to amend the initiative within seventeen days of ballot qualification.

Require that amendments be consistent with the "purposes and intent" of the initiative. The Attorney General would determine whether or not the provisions were consistent with the purposes of the initiative.

- b. Give the legislature a 45-day "cooling-off" period to analyze an initiative after it qualifies. During this period, proponents should be able to negotiate changes with the legislature and take one of the following actions:

Withdraw the initiative from the ballot if:

- A bill that is identical to the initiative is approved by the legislature and signed by the governor, or

- An alternative version of the bill is passed by the legislature and signed by the governor and is acceptable to the proponents. Proponents could condition their approval on the insertion of a provision that requires that any future amendment be approved by a 60 percent vote and be circulated for 12 business days prior to the final legislative vote.

The legislature should be able to vote on all initiative proposals within the 45-day “cooling off” period.

3. Content Issues

a. Special vote requirements - Statutory or constitutional initiative measures that impose a special vote requirement for the passage of future measures must themselves be adopted by the same special vote requirement.

b. Effective Date of Initiatives - Initiative measures should take effect 30 days after the certification of the vote or the following January 1st, whichever comes first.

4. Election and Campaign Related Issues

a. Increase disclosure of funding sources.

b. Provide additional voter information.

c. Improve the ballot pamphlet design.

d. Simplify ballot descriptions.

e. Improve disclosure in the financing of slate mailers.

5. Post-Election Issues

a. Authorize legislative amendments to statutory initiatives after enactment.

After three years following the enactment of a statutory initiative the legislature would have the authority to amend the measure by a two-thirds vote. The amendment must be consistent with the purposes and intent of the measure.

b. Include in the petition circulated for the initiative a notice that the legislature has the authority to amend the measure.

California Commission on Campaign Financing, 1992

The California Commission on Campaign Financing was established in 1984 as a non-profit organization. The commission consisted of 24 members. The commission studied the initiative process for several years and issued a report in 1992 that contained the following recommendations:

1. Circulation Issues

a. Conduct public hearings once 25 percent of the required signatures have been gathered.

b. Revise circulation and qualification requirements. This would include:

Enhancing disclosure requirements.

Simplifying the signature verification process.

2. Post-Qualification, Pre-Election Issues

a. Require the legislature to hold a public hearing on an initiative that has qualified for the ballot.

b. Allow proponents to amend their initiative following the legislative hearing.

c. Give the proponents and the legislature a "cooling-off" period to negotiate a compromise, avoiding the need for an initiative.

d. Require the legislature to vote on all ballot measures.

3. Content Issues

a. Limit initiatives to 5,000 words.

b. Discourage super-majority vote requirements.

c. Make it more difficult to amend the Constitution.

4. Election and Campaign Related Issues

a. Require disclosure of major campaign contributors in media advertisements.

b. Improve slate mail disclosures.

c. Reinstate the FCC Fairness Doctrine for ballot measures.

d. Provide additional voter services.

5. Post-Election Issues

a. Allow the legislature to amend a statutory initiative with a 60 percent vote.

6. Related Issues

a. Require the courts to re-evaluate decisional rules for invalidating conflicting initiatives.

- b. Give further study to the current method for initiating constitutional "revisions."

League of Women Voters, 1999

In 1999, following a restudy of the issue, the League of Women Voters updated their 1984 adopted position regarding the initiative process. The League's position contains the following elements.

1. Initiative Process

- a. California should retain the referendum and direct initiative.
- b. California should adopt an indirect initiative procedure, preferably as an optional alternative to the direct initiative.
- c. The definition of "single subject" pertaining to initiatives should be redefined to ensure stricter interpretation and stricter enforcement.

2. Pre-Circulation Issues

- a. Initiative sponsors should be required to submit draft proposals to an official authority for an opinion on clarity/language, constitutionality/legality, or single subject.
- b. Initiative proposals should be limited to a single subject and written in language that is precise, clear, and understandable.
- c. Initiatives dealing with timely subjects should include a "sunset clause," providing for an automatic expiration of the measure.

3. Qualification

- a. Current requirements should be retained for the number of signatures required and the time allowed for collecting signatures for initiative statutes, initiative constitutional amendments, and referenda.
- b. The filing fee should reflect costs of processing initiative and referendum proposals solicitation of signatures and campaign funds in the same mailing should be allowed.
- c. No requirement for geographic distribution of signatures should be imposed.

4. Election and Campaign Related Issues

- a. No public financing should be provided for initiative and referendum campaigns.
- b. The legislature should conduct public hearings on initiative and referendum proposals around the state, with adequate public notice.
- c. Ballot pamphlet analyses of initiative and referendum measures should be written for the reading level of the average citizen.
- d. The ballot label and ballot pamphlet should clearly indicate the effect of a yes vote and a no vote.

5. Disclosure

Sponsors of an initiative or referendum and organizations which form a committee to support or oppose a measure should be required to be listed by name in the ballot pamphlet, in mailings, and in advertisements.

b. Principal contributors to an initiative or referendum campaign should be required to be listed by name in the ballot pamphlet, in mailings, and in advertisements.

c. Initiative and referendum committees should be required to use names that reflect their true economic or special interest.

6. Election

a. Voting on initiatives should take place at primary and general elections but not at special elections.

b. An initiative statute or constitutional amendment, or a legislative statute appearing on the ballot as a referendum, should be approved by a simple majority of those voting on the measure to take effect.

c. An initiative statute or constitutional amendment which requires a super-majority vote for passage of future related issues should be required to receive the same super-majority vote approval for its passage.

d. State initiative measures should apply to the entire state, not only to those political sub-divisions in which they are approved.

e. An initiative should not be allowed to provide for different outcomes depending upon the percentage of votes cast in its favor.

7. Post-Election

a. Approval by the voters should be required for any changes made by the legislature in a statute adopted by initiative, unless the statute permits amendment without the approval of voters.

b. Initiative proposals which do not win voter approval should be allowed to appear on subsequent ballots without restriction, if they again meet qualification requirements.

California Policy Seminar - Improving the California Initiative Process: Options for Change, November 1991

The California Policy Seminar (currently known as the California Policy Research Center) is a joint program of the University of California and state government. The authors of this report are Philip L. Dubois, currently President of the University of Wyoming and Floyd Feeney, Professor of Law, University of California, Davis.

1. Basic Structure of the Initiative Process

- a. Establish a bipartisan review commission to restore confidence in the initiative process.
- b. Require the same vote requirements for initiative measures that appropriate public funds as are required in the legislature.
- c. Prohibit initiative measures that change the rules concerning their own passage or effect.
- d. Require that, like legislative statutes, initiative measures take effect on January 1 following the election.
- e. Limit the number of initiatives that can appear on a single ballot to six.
- f. Provide additional information on conflicting measures that appear on the same ballot.
- g. Make public the Legislative Counsel's review of drafting comments.
- h. Narrow the single subject rule to make it more enforceable.
- i. Establish a Board of Review, composed of the Secretary of State, Attorney General, and the Legislative Counsel to review and comment publically on issues of constitutionality.

2. Circulation Issues

- a. Increase the number of signatures to qualify an initiative to 10 percent for constitutional amendments.
- b. Base the measurement of the signatures for qualifications on registered voters.
- c. Separate the act of providing information on a measure in circulation from the signing of a petition.
- d. Allow proponents to make technical amendments on proposed initiatives during the circulation period.

3. Post-Qualification Issues

- a. Allow the legislature to enact a statutory initiative.

4. Election and Campaign Issues

- a. Improve the voter pamphlet.

- b. Put initiative measures ahead of measures placed on the ballot by the legislature. Currently, bond measures are first, legislative constitutional amendments are second, and initiative measures are third.
 - c. Increase campaign finance disclosure.
- 5. Post-Election Issues
 - a. Allow the legislature to amend or repeal a statutory initiative.

5. Potential Issues for Discussion

The following is a list of issues that have been discussed by various groups interested in the initiative process.

1. Pre-Qualification Review
 - a. Extension of the current 150-day circulation period.
 - b. Additional financial disclosure requirements.
 - c. Additional public analysis of proposals in circulation.
 - d. Revision of the signature verification procedure.
2. Post-Qualification
 - a. Review and revision of initiatives by the legislature.
 - b. Revision by the proponents with or without the approval of the legislature.
 - c. Establishment of a judicial or quasi-judicial validation proceeding for determining the constitutionality of a proposal.
 - d. Additional campaign disclosure requirements.
3. Indirect Initiative
 - a. Reinstitution of the indirect initiative that California had from 1911 until 1966.
 - b. Exploration of other indirect systems used by other states that would increase the involvement of the legislature in the initiative process.
4. Election
 - a. Review of the information available to the voters to determine if there is a need to provide additional information.
 - b. Establishment of additional campaign finance disclosure for initiatives.
5. Post-Election
 - a. Biennial legislative review of the implementation of initiatives.
 - b. Options for legislative amendments to statutory initiatives.
6. The Single Subject Rule
 - a. A definition of the single subject rule in the Constitution.
 - b. Statutory guidance for the courts to use in reviewing cases brought under the single subject rule.
7. Technological Change
 - a. Circulation issues brought on by electronic signature technology.
 - b. The amount of information available on the Internet.

6. PPIC Survey Results on the Initiative Process

California is in the midst of historic changes that will profoundly affect its future. To understand these changes and how they influence voters' choices at the ballot box, in April 1998, the Public Policy Institute of California began conducting a series of comprehensive statewide surveys. Several of the surveys have included questions on initiatives and on the initiative process itself—how important the process is to voters, how they feel about it, and whether and how they would like to see it reformed. This section contains excerpts from several surveys with discussion of findings that are relevant to the commission's consideration of the initiative process.

From PPIC Statewide Survey, October 2000, pp. 12-13

The Role of Citizens' Initiatives

Californians give the state's initiative process glowing reviews, and they appear to have greater trust in the state's voters than in their elected officials when it comes to making public policy decisions.

Seven in 10 residents think it is a good thing that a majority of voters can make laws and change public policies by passing initiatives, while less than one in four see it as a bad thing. Most Californians (56%) also think it is a good thing that a majority of voters can permanently change the state constitution by passing initiatives, while one in three believe this is a bad thing. A majority of Republicans and Democrats have positive impressions of the citizens' initiative process, while voters outside of the major parties hold the most favorable views. There are no differences across regions, and both Latinos and non-Hispanic whites hold the initiative process in high regard.

Most residents (56%) believe that public policy decisions made by voters through the initiative process are probably better than the public policy decisions made by the governor and legislature. Only one in four see the voters' decisions as "probably worse." Democrats, Republicans, and voters outside of the major parties, and Latinos and non-Hispanic whites alike, have more faith in the decisions made by voters than in those made by their elected representatives in state government.

	All Adults	Party Registration				Latino
		Democrat	Republican	Other Voters	Not Registered to Vote	
<i>In general, do you think it is a good thing or a bad thing that a majority of voters can make laws and change public policies by passing initiatives?</i>						
Good thing	69%	66%	69%	73%	73%	69%
Bad thing	23	25	23	21	18	22
Don't know	8	9	8	6	9	9
<i>Do you think it is a good thing or a bad thing that a majority of voters can make permanent changes to the state constitution by passing initiatives?</i>						
Good thing	56%	51%	56%	63%	63%	62%
Bad thing	33	38	32	28	27	31
Don't know	11	11	12	9	10	7
<i>Overall, do you think public policy decisions made through the initiative process by California voters are probably better or probably worse than public policy decisions made by the governor and state legislature?</i>						
Better	56%	50%	56%	60%	64%	64%
Worse	24	27	22	22	19	22
Same (volunteered)	5	7	6	5	3	2
Don't know	15	16	16	13	14	12

Reforming the Citizens' Initiative Process

While Californians have a lot of respect for the initiative process, most are also aware that it is not perfect. Only 10 percent of the state's residents say they are "very" satisfied with the way the initiative process is working today. Most (58%) say they are "somewhat" satisfied with the process, while only one in four say they are not satisfied with the way the state's system of direct democracy is working.

However, three in four residents say that changes are needed in the California initiative process—only one in five considers the current system just fine the way it is. One in three would like to see major changes, while four in 10 believe that the changes should be only minor in nature.

Even among those who think it is a good thing that voters can make public policies by passing initiatives, most are only somewhat satisfied (62%) with the way the initiative process is working today, and most think that the process is in need of major or minor changes (73%). Similarly, 62 percent of those who think that the initiative process is better than having the governor and legislature make public policy decisions are only somewhat satisfied with the way the initiative process is working, and 75 percent think that the process is in need of major or minor changes.

There are no significant differences across voter groups in satisfaction with the way the initiative process is working today, or in general impressions about the need to reform the initiative process. There is also little variation across regions or between Latinos and non-Hispanic whites. Future surveys will explore specific areas of discontent with the initiative process and examine support for reforms.

	All Adults	Party Registration				Latino
		Democrat	Republican	Other Voters	Not Registered to Vote	
<i>Generally speaking, would you say you are very satisfied, somewhat satisfied, or not satisfied with the way the initiative process is working in California today?</i>						
Very satisfied	10%	10%	9%	6%	13%	16%
Somewhat satisfied	58	59	59	56	57	64
Not satisfied	26	25	26	31	22	17
Don't know	6	6	6	7	8	3
<i>Do you think that the initiative process in California is in need of major changes or minor changes or that it is basically fine the way it is at this time?</i>						
Major changes	32%	31%	27%	33%	40%	36%
Minor changes	43	43	48	41	35	44
Fine the way it is	19	19	19	20	19	16
Don't know	6	7	6	6	6	4

From PPIC Statewide Survey, September 2000, pp. 14-16

Initiatives: Usefulness of Information Sources

Most Californians (84%) rank the Voter Information Guide mailed to voters by the Secretary of State as a useful information source in deciding how to vote on state initiatives, followed by news stories about initiatives (70%), independent and government-operated websites about the initiatives (66%), and, finally, paid political commercials (43%). More than half say the Voter Information Guide is “very useful.” By contrast, one in four rank news stories and websites as very useful, and only 11 percent say that paid political commercials are very useful as information sources on initiatives.

There is little variation across political groups in evaluations of the Voter Information Guide and the other sources of information. Republicans are less likely than others to see news stories as useful in deciding how to vote on initiatives.

Among likely voters, almost all (90%) find the Voter Information Guide useful, and 58 percent rate it as very useful. By contrast, two in three find initiative news stories and initiative websites useful, while only one in four find these sources very useful. Thirty-nine percent of likely voters rank paid political commercials as useful, with 8 percent describing them as very useful. Fifty-nine percent of likely voters say that paid commercials are “not too useful.” among the likely voters who use the internet frequently, almost three in four (72%) say that initiative websites are useful, while 28% think they are very useful.

"In deciding how to vote on citizens' initiatives that appear on the state ballot as propositions, how useful are each of these information sources to you – very useful, somewhat useful, or not too useful?"

	All Adults	<u>Party Registration</u>			Likely Voters
		Democrat	Republican	Other Voters	
<i>The voter information guide mailed to voters by the Secretary of State</i>					
Very useful	52%	56%	54%	50%	58%
Somewhat useful	32	30	34	35	32
Not too useful	12	11	10	13	8
Don't know	4	3	2	2	2
<i>News stories about the initiatives that appear in the media</i>					
Very useful	25%	26%	18%	25%	22%
Somewhat useful	45	47	44	48	46
Not too useful	26	23	35	26	30
Don't know	4	4	3	1	2
<i>Websites about the initiatives set up by government and independent sources</i>					
Very useful	27%	25%	23%	29%	25%
Somewhat useful	39	41	42	38	40
Not too useful	24	23	26	26	25
Don't know	10	11	9	7	10
<i>Political commercials paid for by the initiative campaigns</i>					
Very useful	11%	12%	8%	8%	8%
Somewhat useful	32	31	34	31	31
Not too useful	53	53	55	60	59
Don't know	4	4	3	1	2

Initiatives: Effects of Information Sources on Voting

Two in three Californians believe that the media – that is, both news stories (38%) and paid political commercials (26%) – is the most influential source of information when it comes to voters' decisions on whether to vote yes or no on initiatives. Despite the fact that residents describe the Voter Information Guide as the most useful tool for sorting out initiatives, fewer than one in four rank it as the most influential source of information. Fewer than one in 10 rank government and independent websites as the information source that has the biggest effect on how people vote. Across political groups, California voters believe that news stories in the media have the greatest effect. Independent voters are the least likely to say that the Voter Information Guide is the most influential source of information. Among likely voters, 35 percent rank news stories first, followed by paid commercials (28%) and the Voter's Information Guide (27%) as the most influential sources of information. Even among the likely voters who are frequent Internet users, only 4 percent rank websites as most influential.

The majority of Californians (53%) believe that voters are not receiving enough information to decide how to vote on initiatives, while 15 percent say there is “more than enough” information and 30 percent say there is “just enough information.” While all political groups rank the amount of information as inadequate, independent voters are the most likely to say there is not enough information. Among likely voters, 53 percent say there is not enough information on initiatives.

"Which of these information sources do you think has the biggest effect on voters' decisions to vote yes or no on citizens' initiatives?"

	All Adults	Party Registration			Likely Voters
		Democrat	Republican	Other Voters	
Voter information guide	23%	24%	27%	18%	27%
News stories in the media	38	35	36	43	35
Government and independent websites	7	6	6	7	5
Paid political commercials	26	29	25	27	28
Other	2	2	2	2	2
Don't know	4	4	4	3	3

"Do you think voters are receiving more than enough, just enough, or not enough information to decide how to vote on citizens' initiatives?"

	All Adults	Party Registration			Likely Voters
		Democrat	Republican	Other Voters	
More than enough	15%	14%	19%	14%	17%
Just enough	30	30	31	27	29
Not enough	53	54	48	57	53
Don't know	2	2	2	2	1

From PPIC Statewide Survey, December 1999, p. 18.

Policy Influence

When they consider the forces that influence public policy, Californians evidently would like to see a shift in the balance of power. Currently they believe that the Legislature (37%) has more influence than the Governor (33%) or the initiative process (20%).

San Francisco Bay area residents are the least likely to say that the Governor has the most influence (27%). Latinos are the most likely to say that the Governor (44%) has the most influence, while non-Hispanic whites more often mention the Legislature (40%). Democrats are equally likely to say that the Governor or the Legislature have the most power over public policy (34% to 36%) while Republicans (42% to 29%) and independent voters (40% to 33%) are more likely to say that the Governor is more powerful than the Legislature. Those who are not registered to vote are also more likely to believe that the Governor is more important than the Legislature (39% to 30%).

However, the perceived status quo is not what most Californians would prefer. Forty-two percent would like the initiative process to have the most influence on public policy. Fewer mention the Legislature (30%) as their top choice for state policy influence and even fewer name the Governor (21%).

The initiative process draws its greatest support from two regions with very different political profiles—the San Francisco Bay area and the Southern California suburban region. Moreover, the initiative process is the top choice for independent voters (48%), Republicans (45%), Democrats (42%), and those who are not registered to vote (35%). Latinos want the Governor (37%) to have more influence than initiatives (32%) or the Legislature (21%). However, non-Hispanic whites opt for initiatives (46%) over the Legislature (34%) or the Governor (15%).

	All Adults	Region				Latino
		Central Valley	SF Bay Area	Los Angeles	Other Southern California	
<i>"In California state government today, which of the following do you think has the most influence over public policy?"</i>						
The governor	33%	35%	27%	36%	33%	44%
The legislature	37	39	40	34	36	27
Initiatives on the state ballot	20	16	23	19	23	20
Other answer	2	2	3	2	2	2
Don't know	8	8	7	9	6	7
<i>"Which of the following would you prefer to have the most influence over public policy in California State Government?"</i>						
The governor	21%	24%	16%	26%	18%	37%
The legislature	30	29	32	28	31	21
Initiatives on the state ballot	42	40	46	38	46	32
Other answer	2	2	2	1	1	1
Don't know	5	5	4	7	4	9

From PPIC Statewide Survey, January 1999, p. 16

Initiative Process

Although Californians in the October survey voiced concern about various aspects of the initiative process, in the present survey they expressed more confidence in that process than in their elected officials. When asked which is the best way to address the most important problems facing the state today, Californians overwhelmingly favored the citizens' initiative process (75%) over relying on the Governor and state Legislature to pass state laws (21%). Independent voters and other party members are even more likely than Democrats or Republicans to place their faith in the initiative process. This confidence in the initiative process is found across all of the major regions of the state and across racial and ethnic groups.

"What do you think is the best way to address the most important problems facing California today: (a) The Governor and State Legislature should decide what to do and pass state laws; (b) California voters should decide what to do by bringing citizens' initiatives to the ballot box and passing them?"

(All Adults)	President Clinton	Governor Davis	U.S. Congress	California Legislature
Excellent	16%	10%	2%	2%
Good	39	41	24	30
Fair	27	34	48	48
Poor	18	9	21	13
Don't know	0	6	5	7

Governor and State Legislature

One reason that the initiative process enjoys such strong support is that very few Californians feel highly confident about the problem-solving abilities of the Governor and State Legislature. When it comes to solving the state's most important problems, only 11 percent of the people have a great deal of confidence in the state's elected leaders. Six in 10 say they have only some confidence in them, while three in 10 have little or no confidence in them. Independent voters and other party members are even more likely than Democrats or Republicans to say they have little or no confidence in the problem-solving abilities of the Governor and the State Legislature. There are no differences across regions of the state or between racial and ethnic groups.

"How much confidence do you have in the Governor and State Legislature when it comes to their ability to solve the state's most important problems: Do you have a great deal, only some, very little, or no confidence?"

	All Adults	Region				Latino
		Central Valley	SF Bay Area	Los Angeles	Other Southern California	
Most of the time	28%	25%	28%	28%	32%	18%
Some of the time	42	40	49	41	39	45
Only now and then	22	26	19	23	21	26
Hardly ever	6	7	4	6	5	8
Never	2	2	0	2	2	3
Don't know	0	0	0	0	1	0

From PPIC Statewide Survey, October 1998, pp. 11-13

California's Initiative Process

Californians evidently still strongly support Proposition 13 and its perceived effects. Twenty years ago, Proposition 13 constrained the ability of local governments to raise local revenues. It limited the property tax rate to one percent and the growth of property tax increases to two percent annually until the property is sold. Some local government officials claim this constraint on tax revenues limits their abilities to provide residents with public services. The results of the survey suggest that California residents don't share this perception.

Only one in four Californians believes that the tax limitations imposed by Proposition 13 have negatively affected the services provided by their local governments. The vast majority, two in three residents, say that this tax limiting feature has had no effects or positive effects. San Francisco Bay area residents are the most likely to say there have been negative effects, but six in 10 in this region view the overall effects as either neutral or positive. Republicans (47%) are much more likely than Democrats (37%) to say that the tax limitations have had a good effect on local government services. There are no differences between homeowners and renters.

Proposition 13 also gave the state government the responsibility of dividing the property tax funds among the local governments that provide services. Some local government officials say this has taken away important local powers and has created a system that lacks fiscal accountability and responsibility.

In contrast, a majority of California residents favor this arrangement; only one in three is opposed to the current system of state and local financial relationships. San Francisco Bay area residents are evenly divided on this issue, while residents of other regions are strongly in favor of this fiscal arrangement. There are no differences by party or between homeowners and renters.

"Citizens' initiatives bring up important public policy issues that the Governor and State Legislature have not adequately addressed."

	All Adults	Region			Housing	
		LA Metro	SF Bay Area	Central Valley	Own	Rent
Strongly agree	22	23	23	21	20	23
Somewhat agree	51	48	48	54	51	51
Somewhat disagree	16	16	17	14	16	16
Strongly disagree	6	8	7	5	9	6
Don't know	5	5	5	6	4	4

"The ballot wording for citizens' initiatives is often too complicated and confusing for voters to understand what happens if the initiative passes."

	All Adults	Region			Housing	
		LA Metro	SF Bay Area	Central Valley	Own	Rent
Strongly agree	44	43	43	46	38	46
Somewhat agree	35	35	37	33	36	35
Somewhat disagree	11	11	11	12	13	11
Strongly disagree	6	7	6	5	9	5
Don't know	4	4	3	4	4	3

"Citizens' initiatives usually reflect the concerns of organized special interests rather than the concerns of average California residents."

	All Adults	Region			Housing	
		LA Metro	SF Bay Area	Central Valley	Own	Rent
Strongly agree	34	34	35	30	29	36
Somewhat agree	44	45	42	45	47	43
Somewhat disagree	12	13	12	12	13	12
Strongly disagree	6	6	7	8	8	6
Don't know	4	2	4	5	3	3

Initiative Reform

Proposition 13 further limited the abilities of local governments to raise revenues by requiring that all new special taxes are passed by two thirds of the voters instead of a simple majority. Some local government officials argue that this high hurdle makes it virtually impossible to pass local taxes and raise the revenues needed to provide local services to their residents.

However, two thirds of Californians believe that the supermajority vote for local taxes has had a neutral or positive effect on the services provided to local residents, while about one in five say it has had a bad effect. San Francisco Bay area residents are more negative than others, but a strong majority in that region also perceives the supermajority vote as having no effects or positive consequences. Republicans (47%) are more likely than Democrats (33%) and independent voters (34%) to say that the supermajority vote has had a good effect on local government services. There are no differences between homeowners and renters.

Some have called for changing the supermajority vote requirement so that local governments can have more control over their source of new revenues. Given the widespread perception of its neutral or positive impacts on local government services, it is not surprising to learn that Californians strongly oppose changing the supermajority vote. Fewer than four in 10 favor lowering the threshold for new local taxes to a simple majority. There are no differences across regions of the state. Homeowners are somewhat more opposed than renters; however, both groups strongly object to changing this feature of Proposition 13.

"How do you feel about these proposals for initiative reform?"

"After an initiative has qualified for the ballot, the Legislature would have a short time period to hold hearings on the initiative and to adopt technical or clarifying changes. If the proponents of the initiative agree, the measure would be submitted to the voters as revised by the Legislature. Do you favor oppose this initiative reform?"

	All Adults	Region			Housing	
		LA Metro	SF Bay Area	Central Valley	Own	Rent
Favor	63	62	61	63	65	62
Oppose	29	30	30	28	26	30
Don't know	8	8	9	9	9	8

"Do you favor or oppose allowing the Legislature, with gubernatorial approval, to amend initiatives after they have been in effect for six years?"

	All Adults	Region			Housing	
		LA Metro	SF Bay Area	Central Valley	Own	Rent
Favor	44	44	39	47	52	42
Oppose	49	50	54	46	42	52
Don't know	7	6	7	7	6	6

Appendix A

Membership of Commissions that Reviewed the Initiative Process

California Constitution Revision Commission

Bill Hauck, Chair	Russell Gould
Donald Benninghoven, Vice Chair	Kamala Harris
Larry Arnn	Alan Heslop
George Babikian	Elizabeth Hill
Anne Bakar	Senator Lucy Killea
Andrew Baron	Senator Bill Leonard
Craig Brown	Jane Pisano
Elizabeth Cabraser	Richard Rider
Betty Tom Chu	Judge Ronald Robie
Lewis Coleman	Chui Tsang
Edward Erler	Judge Roger Warren
Joel Fox	Leon Williams
Steve Frates	

Citizen's Commission on Ballot Initiatives

A. Alan Post, Chair	Alan Heslop
Lucie Bava	Lisa Hughes
Rudolph Crew	Robin Johansen
Hon. March Fong Eu	Hon. Dan Lungren
Joel Fox	Jim Parrinello
Jeremiah Hallisey	Lonna Smith
Paul Henry	Dr. Lawrence Wan
Antonia Hernandez	

California Commission on Campaign Financing

Cornell C. Maier, Co-Chair	Donald Kennedy
Rocco C. Siciliano, Co-Chair	Melvin B. Lane
Francis M. Wheat, Co-Chair	Robert T. Monagan
Clair W. Burgener	Luis Nogales
Warren Christopher	Susan Westerberg Prager
Robert R. Dockson	Frank K. Richardson
Walter B. Gerken	William R. Robertson
Stafford R. Grady	James M. Rosser
Neil E. Harlan	Peter F. Scott
Philip M. Hawley	Jean R. Wente
Ivan J. Houston	Samuel L. Williams
Michael Kantor	

Appendix B

Features of State Indirect Initiative Processes

A State-by-State Account of the Indirect Initiative Process

The indirect initiative is a process by which voters can submit a measure to their state legislature for consideration. In general, the legislature has a set period of time to adopt or reject the proposal. If it is adopted by the legislature, the measure becomes law (albeit one subject to referendum). If the measure is rejected or the legislature fails to act within a set period of time, the measure is generally placed on the ballot at the next general election. Currently, the constitutions and provisions of ten states provide for an indirect initiative process: Alaska, Maine, Massachusetts, Michigan, Mississippi, Nevada, Ohio, Utah, Washington, and Wyoming. Their respective indirect initiative processes are described below.

1. Alaska¹

Alaska uses a form of the indirect initiative called the legislature's option, and only statutes are eligible. Here, after collecting the proper amount of signatures (10% of those who voted in the preceding election), the petitioners must submit their request prior to the beginning of the legislative session. The legislature is not required to consider the measure, however, and if it does not, the measure goes on the next ballot. If the legislature adopts the measure or a measure that is substantially similar, the initiative does not go on the ballot. Other than Wyoming, Alaska is the only state in which the legislature may vary indirect initiative statutory proposals without creating the possibility of a vote on the amended measure.

2. Maine²

After Massachusetts, Maine is the second largest user of the indirect initiative. Only statutes are allowed. The required number of signatures is 10% of the total votes cast for governor in the last election. The legislature has the entire session in which to act and may decide to place an alternative proposal or recommendation on the ballot. If it chooses to do this, it must construct the ballot so that voters can choose between competing versions (one or more) or reject both. The Legislature can also reject the initiative, in which case it is placed on the ballot. Following enactment, the Legislature can both repeal and amend initiatives.

¹ Alaska Constitution Article XI; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

² Maine Constitution Article IV; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

3. Massachusetts³

Massachusetts is by far the largest user of the indirect initiative. Both constitutional amendments and statutes may be proposed, and signatures that total only 3% of the entire vote cast for Governor are required. The Massachusetts procedure for constitutional amendments is the most indirect of any American initiative procedure, as the proponents have no right to submit their proposal to a vote of the people unless the legislature places the measure on the ballot. The process involves a two-step procedure. In the first step the sponsor must obtain a fairly low number of signatures (3 percent) to have the legislature consider the proposal. Initiative amendments are acted upon by a joint session of the House and Senate; the Legislature can only amend the initiative by a _ majority vote in a joint session of both houses. If the legislature fails to adopt the proposal, the sponsors must seek additional signatures to get on the ballot. An initiative amendment to the Constitution will not appear on the ballot if, when it comes to a vote in either joint session, less than 25% of the legislators vote in favor of it or if no vote is taken before the legislative term ends. Following enactment, the Legislature can both repeal and amend initiatives. In practice, the indirect initiative process is rarely used for constitutional amendments.

4. Michigan⁴

Only statutes may be proposed in Maine's indirect initiative process, and the number of signatures required to qualify is at least 8% of the total votes cast for Governor in the last general election. Once submitted, the legislature has 40 days to act on a petition and may also place an alternative on the ballot. It can approve or reject an initiative, but it cannot amend one. However, it can submit an alternative to an initiative to the ballot. If rejected, the measure can be placed on the next ballot. Following enactment, the Legislature can both repeal and amend initiatives.

³ Massachusetts Constitution amendment article XLVIII, Initiative part 5 (statutes), part 4 (cons. Amendment); Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

⁴ Michigan Constitution Article II; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

5. Mississippi⁵

Mississippi is the only state in which the indirect initiative process is used for constitutional amendments only. To qualify an amendment for consideration, the number of collected signatures must equal 12% of all votes cast for governor in the last election. These initiatives always appear on the ballot, whether the legislature adopts, rejects, or proposes alternatives to them. If it is amended, both the amended version and the original one are submitted to the ballot. The Legislature is empowered to both repeal and amend these initiatives following enactment. This procedure was adopted in Mississippi in 1995, but has been used only very rarely.

6. Nevada⁶

Nevada requires that 10% of the total number of voters in the last general election sign a petition in order for it to be considered by the Legislature. After submission, the Legislature has 40 days to act on a petition and may also place an alternative on the ballot. If the measure is rejected by the Legislature or if no action is taken in 40 days, the measure is placed on the ballot. The Legislature can only repeal or amend an approved initiative three years after enactment. Nevada used an indirect procedure for initiative constitutional amendments until 1962. Since then, Nevada has required that initiative constitutional amendments be approved at two separate elections but has allowed the amendments to go directly on the ballot. Because of the two separate elections requirements, the legislature still has an opportunity to deal with any matter proposed before a final ballot. As a result, some see this as really being an “indirect” procedure.

7. Ohio⁷

Ohio is one of two states (along with Massachusetts) that have a two-step procedure in the indirect initiative process. In the first step the sponsor must obtain a fairly low number of signatures (3 percent of the total vote cast for governor in the last election) to have the legislature consider the proposal. Only statutes are permitted. If the legislature fails to adopt the proposal (or does not act on it), the sponsors must seek additional signatures to get on the ballot. The Legislature may amend the proposed measure.

⁵ Mississippi Constitution Section 273; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

⁶ Nevada Constitution Article XIX; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

⁷ Ohio Constitution Article II; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

8. Utah⁸

Utah (along with Washington) is one of only two states that allow the initiative sponsor to choose whether they wish to use the direct process or indirect initiative process. In Utah, there is an incentive to use the indirect initiative, since indirect initiatives can go before the legislature with signatures equal to five percent of the last vote, while the direct initiative requires twice that number. If the legislature rejects the indirect initiative, its advantages are lost, however, because sponsors must come up with signatures equal to another 5% of the vote. Only statutes can be proposed and signatures that total at least 5% of all votes cast for governor in the last election are required. The proposed law can only be enacted or rejected without change or amendment by the Legislature. Following enactment, the Legislature can both amend and repeal initiatives.

9. Washington⁹

Washington (along with Utah) is one of the two states that allow voters to choose between the indirect and direct initiative. The number of signatures required for each type of initiative is the same (8% of the votes cast for governor in the last election); thus, the sponsor chooses the type that seems most advantageous. In practice voters overwhelmingly choose the direct variant. Only statutes can be considered in the indirect process. Following submission to the legislature, the Legislature can approve an amended version of the proposed legislation, in which case both the amended version and the original proposal must be placed on the next state general election ballot. If the Legislature adopt the measure without amending it, it automatically becomes law. After enactment, the Legislature can repeal or amend an initiative by a _ vote of each house during the first two years of enactment, and a majority vote thereafter.

10. Wyoming¹⁰

Wyoming, like Alaska, uses the “legislature’s option” form of indirect initiative. Initiative sponsors must collect their signatures (15% of those voting in the last election) prior to the beginning of the next legislative session. Only statutes can be proposed using the indirect process. The legislature is not required to consider the measure, however. If it chooses not to consider the measure, it is placed on the next ballot. If the legislature adopts the measure or a measure that is substantially similar, the initiative does not go on the ballot. As mentioned above, Wyoming and Alaska are the only states in which the legislature may vary indirect initiative statutory proposals without creating the possibility of a vote on the amended measure.

⁸ Utah Code Ann. Sections 2-A-7-201, -208 (Supp. 1994); Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

⁹ Washington Constitution Article II; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

¹⁰ Wyoming Constitution Article III, Section 52; Dubois, Philip L. and Floyd Feeney, *Lawmaking by Initiative: Issues, Options and Comparisons*. New York: Agathon Press, 1998.

After a measure is enacted, the legislature can amend it, and repeal it after two years.

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