



BRIEFLY

To make government more responsive to the people, 24 states adopted the initiative and popular referendum some time between 1898 and 1918. Washington did so in 1911.

Since then, hundreds of initiatives have appeared on state ballots. Locally, various groups now are seeking to gather enough signatures to put as many as 30 initiatives on the November ballot.

Increasingly, critics are charging that the initiative process has been co-opted by high-spending special interests, and that initiatives often over simplify complex issues that lawmakers should hash out in legislative debate. As a result, initiatives can produce flawed public policy that takes years to rectify.

Has Populist Reform Become Too Popular?

In the early 1900s, the Progressives held that the cure for the ills of democracy of their time was more democracy, in the form of the initiative and popular referendum. Today, some contend that the initiative process itself is ill and needs fixing.

Critics say that initiatives have become tools in the hands of high-spending special interests bent on skirting the legislative process and on manipulating voters with over-simplified messages that omit discussion and analysis of complicated issues.

“Initiatives, a once revolutionary way to challenge government, are becoming the weapon of choice for people who want their way – now,” The Seattle Times said recently, and went on to recommend “some fresh ways of fixing the initiative process.” Among them: strictly limiting initiatives to a single subject, having the attorney general screen initiatives for potential constitutional conflicts, and directing the Office of Financial Management to summarize fiscal impacts on state and local governments.

Debate over whether to fix the initiative process reflects the historical tension between republican democracy, wherein we elect representatives to pass our laws, and direct democracy, in which we ourselves pass the laws, as by use of the initiative.

Teddy Roosevelt alluded to that tension when he said, “I believe in the initiative and referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative.”

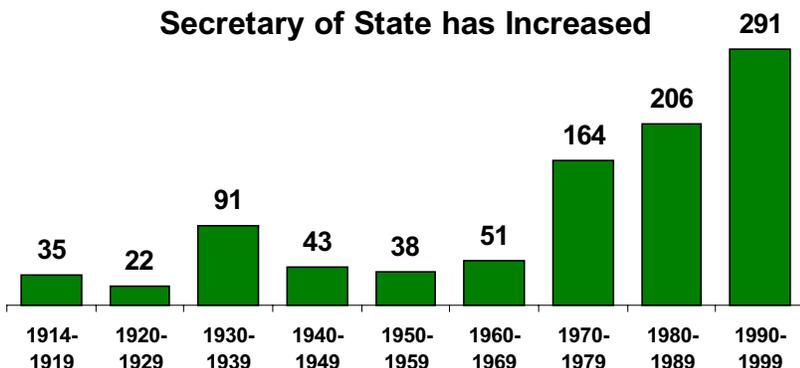
The Populist Party of the 1890s plumped for adoption of the initiative, and Progressives embraced the cause. They urged adoption of the initiative and referendum as “they worked steadily to dismantle the political machines and

bosses that controlled American politics,” according to the Initiative & Referendum Institute. “Their goal, as is today’s proponents of the initiative and popular referendum, is to ensure that elected officials remain accountable to the electorate.”

In 1898, Nebraska became the first state to allow statewide initiative and popular referendum. Oregon was the second, in 1902. By 1918, a total of 24 states had adopted these instruments of direct democracy, including Washington in 1911.

During the hundred-year period 1898-1998, according to the Initiative & Referendum Institute, 1,710

The Number of Initiatives Filed with the Secretary of State has Increased



Source: Secretary of State



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initiatives were put directly on the ballot, and 41 percent were adopted. This year in Washington, various groups are trying to qualify 30 initiatives for the November ballot.

But if the initiative is “another check-and-balance on the power of government,” as the Institute contends, there are those who now argue that the initiative process itself is in need of checks. And one state has considered outright repeal.

Mississippi lawmakers recently allowed a bill to die that would have repealed the state’s constitutional provision allowing constitutional amendment by initiative.

Other states are mulling less severe measures. Legislatures in Arizona, Mississippi, Nebraska and Oregon have been weighing legislation that limit initiatives, according to the National Conference of State Legislatures.

One bill pending in the Oregon legislature would prohibit state and local initiative petitions that would result in the taking of private property. Another would bar initiative amendments to the state constitution that dedicate revenue, appropriate revenue, repeal appropriations or require expenditures exceeding \$500,000 a year.

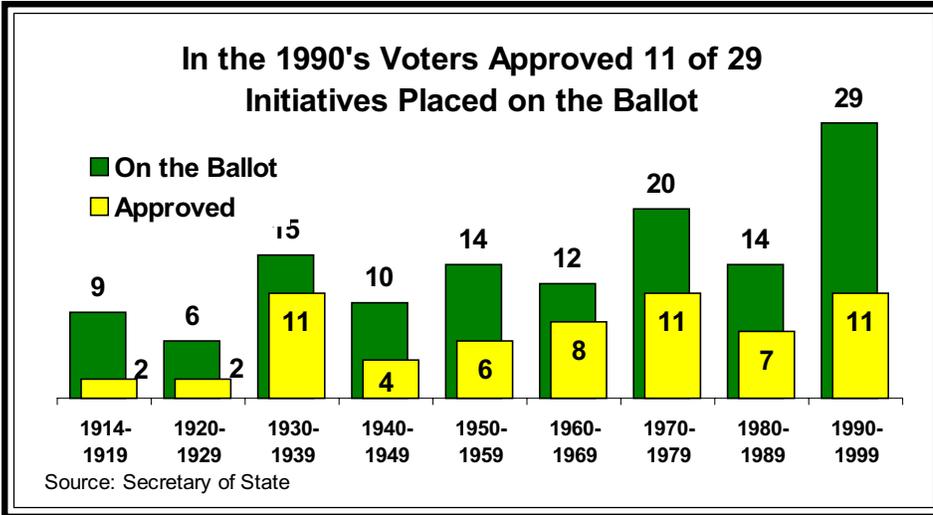
Washington lawmakers earlier this year considered legislation pertaining to initiatives. Had it passed, HB 1626 would have required those who gather signatures for a petition to certify, on the petition, that as far as known, the petition signatures are valid; required an initiative to include a statement as to whether the signature gathers are being paid, and if so, by whom; and required elimination of initiative provisions that are found unconstitutional.

The National Conference of State Legislatures has been tracking proposed state initiative-and-referendum legislation, and policy specialist Jennie Drage has summarized the arguments on both sides. The perceived negative aspects of initiatives include:

- Lack of flexibility. Once a petition has been drafted and approved for legislation, there’s no amending it until after adoption.
- Lack of legislative process. Initiatives do not undergo the debate, analysis and compromise that shape public policy.
- Vulnerability to manipulation. Initiative supporters can sway voters with high-spending campaigns, media advertising blitzes, and simplistic, inaccurate arguments.
- Over simplification. Initiative force voters to make simple yes-no choices about complex issues, often without enough information about the issue and its pros and cons.

Initiative supporters, however, including those now pressing for the right for its use in Texas, contend that the initiative is needed to make government more responsive. Even as critics attacked last year’s hotly argued Initiative 695 here in Washington, its supporters claimed that it was the only way to deal with the Legislature’s refusal to reduce the hated motor vehicle excise tax.

During the Research Council’s recent annual meeting, Larry McCarthy, president of the California Taxpayers Association, discussed issues besetting the initiative process – which Californians have taken to enthusiastically for popular votes on matters ranging from environment, health care and gambling to



affirmative action, insurance reform and tax reform. He noted that an evaluation of the process done at the University of California at Berkeley concluded that voters need a graduate degree to understand information about an initiative in the voters pamphlet. Which possibly is one reason that only 10 percent of them read it.

McCarthy referred to Washington Post columnist David Broder's new book, *Democracy Derailed: Initiative Campaigns and the Power of Money*, in which Broder argues that the initiative "is alien to the spirit of the Constitution and its careful system of checks and balances," and that over the

past decade it has "become the favored tool of millionaires and interest groups to achieve their own policy goals."

McCarthy suggested that initiatives have spawned what many see as abuses, such as voter manipulation by expensive and sophisticated consultants, lawyers and paid signature gatherers (earning \$5 a signature).

If the Populists were outraged that moneyed special interests controlled the lawmakers of their time, many people now are incensed about the large sums of money spent by special interests on initiatives. McCarthy remarked that contingency-fee lawyers in California spent millions to make their state a better place to litigate claims, and Indian tribes supported two initiatives legalizing casino gambling at a cost of \$130 million.

During the past 30 years, McCarthy said, most major policy changes in California have been effected by initiatives. Generally, they've reached too far, and usually they've had glitches. Since the initiative process does not allow for amendments, he said, they often result in flawed policies that take years to correct. Meanwhile, the Legislature has been marginalized.

McCarthy observed that various interests have embraced the initiative process in California much as they have here. Successful initiatives can produce perverse consequences, however. The upcoming statewide vote on a licensing fee for geologists, for instance, is a result of last year's passage of Initiative 695, which mandated voter approval of tax, and fee increases.

Nonetheless, efforts to curtail the ability of the voters to bypass the legislative process would be premature here. Washington differs substantially from California. It is relatively more difficult here to qualify an initiative to the people, and voters may not amend Washington's constitution by initiative.

Business leaders here traditionally have been reluctant to promote ballot initiatives, but they will have to bethink their attitude in light of recent initiative victories. Offering positive alternatives to simplistic or extreme measures may prove a more effective strategy than simply urging their defeat.

As McCarthy points out, the rules have changed, and business organizations must adapt to remain effective in shaping public policy.

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