

INITIATIVES AND REFERENDA AT THE LOCAL LEVEL

BRIEFLY

Initiative and referendum powers were granted to Washington's citizens via constitutional amendment in 1912. Various cities and counties in the state also allow for local initiatives and referenda, but how and when the powers may be used differ depending on the jurisdiction.

There are 281 cities in Washington; 59 of them allow initiatives and referenda. Six of the 39 counties do the same.

The ability of citizens to direct their representatives through the initiative process can have considerable impact on the course of legislation. Washington is one of 27 states granting citizens the rights of initiative and referendum in some form. Though most common in the populist West, other states with these powers include Maine, Massachusetts, and Michigan.

Initiative and referendum powers in Washington are reserved by the people in the state constitution (Article II, Section 1):

The legislative authority of the state of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

These powers were granted to citizens in a constitutional amendment approved by voters in 1912. Part of the national Progressive movement, direct legislation was meant to counter governmental corruption. Other Progressive policies from the era included the income tax, Prohibition, and women's suffrage.

Some cities and counties in Washington also have initiative and referendum powers. (Seattle adopted them as an amendment to its charter in 1908.) Lately they have been used to limit the use of red-light cameras, for example.

Jurisdictions with Initiative and Referendum Powers

According to the Municipal Research and Services Center (MRSC), the powers of initiative

and referendum "are not automatically included in the powers granted to cities, towns or counties. The authority for use of these powers is found either in the state constitution or in enabling legislation adopted by the state legislature, or both."

In Washington, local jurisdictions are classified as first class cities, second class cities, towns, commission cities, or code cities.

Counties are either commission or charter. Each jurisdiction has its own rules regarding initiatives and referenda. There are 281 cities and towns in Washington; 59 of them allow initiatives and referenda. Only six of the 39 counties do the same (see tables 2 and 3).

- First class cities:

First class cities are those with populations of at least 10,000 at the time of incorporation who have adopted charters (Article XI, Section 10 of the constitution; RCW 35.01.010). State law (RCW 35.22.200) says, "The charter may provide for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city."

There are ten first class cities: Aberdeen, Bellingham, Bremerton, Everett, Seattle, Spokane, Richland, Tacoma, Vancouver and Yakima. All of them have adopted initiative and referendum powers.

- Second class cities and towns:

Second class cities are those with populations of 1,500 or more at the time of incorporation that do not have a charter (RCW 35.01.020). Towns have populations of less than 1,500 at the time of incorporation (RCW 35.01.040). Neither second class cities nor towns have the powers of initiative or referendum.

- Code cities:

Code cities were created to give cities "the broadest powers of local self-

Table 1: States with initiative and/or referendum powers

Alaska
Arizona
Arkansas
California
Colorado
Florida
Idaho
Illinois
Kentucky
Maine
Maryland
Massachusetts
Michigan
Mississippi
Missouri
Montana
Nebraska
Nevada
New Mexico
North Dakota
Ohio
Oklahoma
Oregon
South Dakota
Utah
Washington
Wyoming

Table 2: Cities with initiative and referendum powers

Aberdeen
Battle Ground
Bellevue
Bellingham
Blaine
Bonney Lake
Bothell
Bremerton
Brier
Burien
Camas
Chelan
Cheney
Des Moines
Edgewood
Edmonds
Ellensburg
Everett
Federal Way
Goldendale
Issaquah
Kelso
Kent
Lakewood
Lake Forest Park
Longview
Lynnwood
Mercer Island
Mill Creek
Monroe
Mountlake Terrace
Mukilteo
North Bend
Ocean Shores
Olympia
Port Angeles
Rainier
Raymond
Redmond
Renton
Richland
Ridgefield
SeaTac
Seattle
Sequim
Shelton
Shoreline
Spokane
Spokane Valley
Tacoma
Tenino
Tukwila
Tumwater
Vancouver
Walla Walla
Washougal
Wenatchee
Woodinville
Yakima

government consistent with the Constitution” (RCW 35A.01.010). Other types of cities may choose to become code cities. If a code city has a population of 10,000 or more, it may adopt a charter.

Code cities may adopt the powers of initiative and referendum (RCW 35A.11.080). Forty-nine have done so.

- **Commission cities:**
Shelton is Washington’s only commission city. As such, its citizens have initiative and referendum powers.
- **Charter counties:**
Counties may choose to adopt charters (Article XI, Section 4 of the constitution), through which they may allow initiatives and referenda. The six counties that have charters also have initiative and referendum powers. They are Clallam, King, Pierce, San Juan, Snohomish and Whatcom.
- **Commission counties:**
Commission counties (those that do not adopt charters) do not have the powers of initiative or referendum.

Certain Legislation is Exempt

Certain rules apply to the circumstances in which those powers may be used, depending on the type of jurisdiction. First class cities and charter counties make their own initiative and referendum policies.

Rules for non-charter code cities are set out in RCW 35A.11.090. In these cities, ordinances that are exempt from referenda include ordinances initiated by petition; necessary for immediate preservation of public peace, health, and safety or for the support of city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the council; providing for local improvement districts; appropriating money; providing for or approving collective bargaining; providing for the compensation of or working conditions of city employees; and authorizing or repealing the levy of taxes.

Similarly, commission cities, under RCW 35.17.230, exempt from referenda ordinances initiated by petition; necessary for immediate preservation of public peace, health, and safety which contain a statement of urgency and are passed by unanimous vote of all the commissioners; and providing for local improvement districts.

Further, courts have ruled that there are limits to the use of initiatives and referenda. In order for these powers to be used, the ac-

tion involved must first be legislative—not administrative. Then, for legislative actions, if the state legislature has not given the power to act on a particular matter directly to the legislative authority of a city or county (but has instead given it to the electorate), then initiative and referendum powers are applicable. For example, MRSC notes that the power to purchase liability and workers’ compensation insurance (RCW 35.21.209) and the power to annex unincorporated areas to a city (RCW 35.13) are specifically granted to city legislative bodies. As such, initiative and referendum powers do not apply to them.

Recall

The ability to recall public officials is closely related to the ability to direct legislation. Indeed, the right of recall was also enacted as an amendment to the constitution in 1912.

Article I, Section 33 of the constitution states that “Every elective public officer of the state of Washington expect [except] judges of courts of record is subject to recall and discharge by the legal voters of the state, or of the political subdivision of the state, from which he was elected.” Article I, Section 34 lays out more specifics.

Examples

Because initiative and referendum powers are not standardized across localities, it is necessary to consider each city’s laws individually to see how and when the powers may be exercised. Following are some examples from across the state.

Seattle. The Seattle city charter (Article IV, Section 1) says that

the power to propose for themselves any ordinance dealing with any matter within the realm of local affairs or municipal business, and to enact or reject the same at the polls, independent of the Mayor and the City Council, is also reserved by the people . . . And there is further reserved by and provision made for the exercise by the people of the power, at their option, to require submission to the vote of qualified electors and thereby to approve or reject at the polls any ordinance, or any section, item or part of any ordinance dealing with any matter within the realm of local affairs or municipal business, which may have passed the City Council and Mayor.

In order for an initiative to make the ballot, a petition must be signed by a number of

Table 3: Counties with initiative and referendum powers

Clallam
King
Pierce
San Juan
Snohomish
Whatcom

voters equaling at least 10 percent of the votes cast for mayor in the preceding election. Regarding the referendum power, it may be used “except as to ordinances necessary for the immediate preservation of the public peace, health or safety, or providing for the approval of local assessment rolls, or for the issuance of local improvement bonds.” The city council may forward a referendum to voters, or a petition must be signed by a number of voters equaling at least 8 percent of the votes cast for mayor in the preceding election.

Spokane. The Spokane city charter (Article IX) also allows for initiatives and referenda. If an initiative petition is signed by voters equaling at least 15 percent of the total votes cast in the last general municipal election, “the city council shall either pass such ordinance with alteration, or submit it to popular vote at the next available special or general municipal election.” Similarly, petitions with signatures totaling at least 5 percent of votes cast in the preceding general election may be passed by the council or submitted to a popular vote at the next available general election.

If a petition signed by a number equaling at least 10 percent of the votes cast at the immediately preceding general municipal election is filed protesting an ordinance prior to its effective date, “it shall be suspended from taking effect. Thereupon the council shall reconsider such ordinance and, if it does not entirely repeal the same, shall submit it to popular vote at the next municipal election; or, the council, in its discretion, may call a special election for that purpose, and such ordinance shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.”

Additionally, the council may “submit to popular vote for adoption or rejection at any election, any proposed ordinance or measure.” Specifically, the council “shall submit to popular vote any proposed ordinance imposing or increasing the rate of a business and occupation tax, except a tax upon utilities, and no such business and occupation tax ordinance shall take effect until approved by a majority of the electors voting thereon.”

Wenatchee. As a municipal code city, Wenatchee follows state law regarding initiatives and referenda. Chapter 1.03 of its municipal code states,

The city of Wenatchee hereby adopts the power of initiative and referendum for the qualified electors of the city as

provided pursuant to RCW 35A.11.080 through 35A.11.100. Such powers are to be exercised as provided in the above referenced sections of the Revised Code of Washington as they now exist or may be amended from time to time and said sections are hereby incorporated in full by this reference.

Kent. Also a municipal code city, Kent also generally follows state law in asserting the powers of initiative and referendum, but it lays the rules out explicitly in its own code. All ordinances are subject to referendum except those mentioned in RCW 35A.11.090 (listed above). Initiative petitions must be signed by a number equaling at least 15 percent of registered voters on the day of the immediately preceding general municipal election. The city council must either pass the proposed ordinance or submit it to voters via a special election (or the next general election, if not more than 90 days away). A referendum petition must also be signed by a number equaling 15 percent of registered voters as of the immediately preceding general municipal election. The city council must reconsider the ordinance and either defeat it or submit it to a popular vote.

King County. The King County charter (Article 2, Section 230) specifies that ordinances “may be introduced by any councilmember, by initiative petition or by institutional initiative.” Other than ordinances “providing for the compensation or working conditions of county employees,” ordinances may be proposed if a petition is signed by voters equaling at least 10 percent of the votes cast for county executive in the preceding election.

Further, “an enacted ordinance may be subjected to a referendum by the voters of the county by filing with the county council prior to the effective date of the ordinance petitions bearing signatures of registered voters of the county equal in number to not less than eight percent of the votes cast in the county for office of county executive at the last preceding election.” Ordinances exempt from referendum are

an appropriation ordinance; an ordinance necessary for the immediate preservation of the public peace, health or safety or for the support of county government and its existing public institutions; an ordinance proposing amendments to this charter; an ordinance providing for collective bargaining; and ordinance approving a collective bargaining agreement; an ordinance provid-

ing for the compensation or working conditions of county employees; or an ordinance which has been approved by the voters by initiative or referendum.

Discussion

The ability of Washington citizens to enact or approve legislation through initiatives and referenda has obviously had a direct impact on state policy. In many cities and counties, including the state's most populous communities, citizens have also claimed that right.

References

- Initiative and Referendum Institute. University of Southern California. www.iandrinstitute.org. August 18, 2011.
- Municipal Research and Services Center. 2006. Initiative and Referendum Guide for Washington City and Charter Counties. Report Number 28. January.