

Clark County Board of Freeholders, 2013-14

Initiative and Referendum

Overview

- The powers of initiative and referendum were outgrowths of the Progressive era of governmental reform as a way to neutralize the overbearing influence of wealth on policy and put power back in the hands of the people.
- There are two common types of initiative (direct initiative and mini-initiative), and two kinds of referenda (popular referendum and legislative referendum).
- The power of initiative refers to the authority of voters to directly initiate and enact legislation. An initiative is a bottom-up action that allows voters, through a petition process, to have a proposed law placed on the ballot for the voters to decide.
- A direct initiative petition must meet or exceed a specified number of validated signatures (a “signature threshold”). Once the signature threshold is validated, usually by the County Auditor, the question of passing the law is presented to the voters.
- The mini-initiative is when a petition is directed to the legislative authority of the county, not the electorate. It usually has a signature threshold percentage that is significantly less than a regular initiative and, if qualified, is presented directly to the council or commission. Within a set time period (typically 30 to 60 days), the council must hold a public hearing and take affirmative action to either enact or reject the mini-initiative (with no amendments).
- If a regular initiative petition fails to get sufficient signatures in time, but gathers sufficient signatures to qualify as a mini-initiative, a county charter may allow the initiative to be presented to the legislative authority as a mini-initiative at the request of the proponents.
- As a protective measure against “raiding” funding for existing programs, some charters require any initiative which would increase the cost of government to include a new funding mechanism (i.e., charge/fee/tax) such that the new law will pay for its own implementation.
- “Referendum” is singular and “referenda” is plural. In Washington, there are two kinds of referenda.
 - First is popular referendum, the power of the people to challenge a new law which has been approved by the legislative authority of the county. Like the initiative process, it requires submittal of a petition with a valid number of signatures (a “signature threshold”). If the signature threshold is validated, then the question of whether to allow the law to continue to enactment is submitted to the voters for their approval or

Direct Initiative

Direct initiatives are laws proposed by petition and submitted directly to voters for approval or rejection without any interference or amendment by the legislative authority of the government. If the people approve it, then it becomes the new law of the land. A “mini-initiative” is one which goes before the Council, but not the voters.

Popular Referendum

Popular referendum is the power of the people to challenge a law which has recently been approved by the legislative authority of the government. If the referendum on the new law qualifies for the ballot and the people reject it, then the law won't be enacted.

rejection. If rejected, then the new law won't be enacted. During the time between the filing of the petition and the final vote, the law that is being subjected to referendum is suspended from becoming effective.

- The second kind of referendum is legislative, meaning the legislative authority of the county directly refers a measure to the electorate for approval or rejection. Importantly, the legislative authority does not itself approve or reject the measure prior to it being referred to the people.
- Sometimes a referendum takes the form of an advisory vote, but this is not really a referendum since advisory votes are nonbinding.
- Contrary to popular opinion, voters in Washington general law counties have some limited powers of initiative and referendum. Some examples are the power of voters to establish a board of freeholders by initiative, the power of voters to increase the number of county commissioners from three to five by initiative, and the power of the legislative authority to place a tax referendum on the ballot. A Home Rule charter, however, could greatly expand direct powers of the people to engage in lawmaking (and law-striking) through initiative and referendum.

Perspectives

- Initiative and Referendum powers are seen by some as an enhancement of civic responsibility for voters by giving them direct power to enact the laws under which they shall be governed. Others, however, view these powers as corrupting forces which undermine the balanced, reasoned outcomes that are intended by a representative democracy. These opposing perspectives basically turn on the question of adequacy. Some believe that government is inherently inadequate at meeting the needs of the people and so the people themselves must have the ability to determine their own fate through the powers of initiative and referendum. Others feel it is the people who are inadequate in fully comprehending the complexities of fateful issues and so representatives dedicated to serving the best interests of the people must be empowered to make those decisions.
- An argument for initiative and referendum is that they allow public policy to reflect the collective will of the voters without the corrupting influence of special interests or monetary gain. It is also seen as an effective way to message voter perspectives to elected officials.
- An argument against initiative/referendum is that they undermine America's republican form of government (representative democracy) and that initiatives have the potential to be unduly influenced by special interest groups when they have lots of money to invest in a campaign.
- Minorities are usually thought to be at risk under popular democracy measures like initiative and referendum since the will of the majority always outweighs the interests of the minority. On the other hand, the majority of Washington residents are presumably not gay, yet gay rights legislation, to include same-sex marriage, was successfully passed by Washington voters as a referendum in November 2012 (R-74).
- In some cases initiatives may have immoderate tendencies when instigators are loyal only to their singular interest group. Additionally, many voters may be naïve about the full scope of consequences regarding a particular initiative. An example of this kind of naïveté about consequences was seen with the passage of Washington's I-937, the Clean Energy initiative, in November 2006 and the high energy cost increases to consumers and businesses that resulted.