

Process Committee Recommendation on Citizen Initiatives

Approved 10/10/06

The Oregon Legislative Assembly as the elected legislative branch of government is responsible for the state's laws, however they are enacted. But our state's long history of initiative, referendum and referral also makes every Oregon citizen a crucial partner in the lawmaking process. Oregonians consider the initiative and referendum a precious alternative to the legislative process and they have proven their intent to preserve and protect it numerous times at the ballot box.

Legislators and citizens must recognize that initiated statutes are just that: statutes. Recent legislatures have sometimes treated an initiated law as politically sacrosanct despite the law's costs or other needs for improvement. For example, legislators referred a controversial law back for a second vote rather than taking responsibility for improving it. Statutes are not untouchable simply because they receive a majority of votes cast during an election – often fewer than a majority of the eligible voters. Lawmaking by elected representatives is the intended norm, and initiatives were meant to be exceptional measures.

During its study of this topic, the committee learned that there are ways that the legislature is already involved in the review and analysis of proposed ballot measures. For example, a chief petitioner may submit 50 signatures to Legislative Counsel requesting assistance in drafting an initiative. Also, the Legislative Revenue Office assists the Financial Impact Committee in preparing financial estimates for the ballot and Voters' Pamphlet.

The following recommendations are intended to enhance the Legislative Assembly's ability to be an effective partner in Oregon's total lawmaking system, as well as to help ensure that the initiative process is not easily taken advantage of by those whose top priority may not be in the best interests of Oregonians.

Recommendations relating to Initiatives:

- 1. Require that the citizen initiative or referendum chief petitioner(s) be registered voters in Oregon.** The initiative process is an opportunity for Oregonians to make decisions for and on behalf of Oregon; therefore those petitioning for change should be Oregonians.
- 2. Require that for each measure, there is a statement in the Voters' Pamphlet that discloses what percentage of signatures came from each of Oregon's 36 counties.** The committee believes that all of Oregon should have a say in the initiative process and that voters should have as much information about where ideas for ballot measures come from and who is involved in promoting them. By disclosing the geographic distribution of signatures, Oregonians will be able to note if there is statewide support for measure.

3. **Require that a notarized statement indicating the identities and physical addresses of the top five contributors to a ballot measure signature-gathering effort be disclosed in the Voters' Pamphlet.** Even if a measure has an Oregon resident as its chief petitioner, it is possible that the bulk of the financial backing for it comes from persons or organizations located far beyond Oregon's borders. In an attempt to know as much as possible about the financial supporters and based on a formula to be developed by the Secretary of State, the committee urges that the identities and addresses of the top five donors (corporate or individual) to the signature-gathering effort be publicized in the Voters' Pamphlet.
4. **Direct the Secretary of State to publicize and explain the process for filing complaints about the initiative process and then insist that existing penalties for Voters' Pamphlet or other violations are fully exercised.** While there may be ample laws on the books or rules about Voters' Pamphlet materials and other details of the initiative process, it is often difficult for "regular people" to know how to call attention to a violation. The committee recommends providing more information on how to file a complaint and on the sanctions levied on those who violate the rules.
5. **Establish a regular process for considering and acting on issues that predictably are headed for the ballot.** For example, the President of the Senate and Speaker of the House would assign to the appropriate substantive committees the topics of initiatives most likely to qualify for the ballot in order to take testimony on the policies in question. The committees would report to the legislative houses either a proposal for legislative action or a statement of substantive reasons why no action is recommended. The initiative's chief petitioners would remain just as free as they now are to pursue their initiative campaign, even if the legislature enacts a law on the same subject. Moving to a second legislative session in even-numbered years will provide additional opportunity for analysis and action of ballot measures.
6. **Establish a process for timely examination of whether initiatives that likely are headed for the ballot meet the eligibility requirements.** Courts sometimes are obliged to invalidate a successful initiated measure, often after the election is over, not because of its substance, but because it was legally ineligible for enactment by the initiative process. At present, the initial determination of eligibility is left to the Secretary of State on the legal advice of the Attorney General, a process that can be open to accusations of partisanship, despite the fact that it may be difficult to decide legal issues on which there are few or no judicial precedents.
7. **Conduct a rigorous review of fraudulent or other irregular means to gather signatures submitted for a measure to qualify for the ballot, and clarify remedies for violations.** Direct democracy is engrained in Oregon's governing process. However, in recent years, it has been reported that there is growing evidence for widespread fraud in the initiative signature gathering process. The Secretary of State has recently hired a full-time investigator whose sole responsibility is to provide oversight and investigation of the signature gathering process. While this initial step is important, the committee strongly urges that more resources be made available to enforce the laws and rules related to

signature gathering. The signature gathering process must be clear and violations must be met with swift and just resolution and penalties.