



DIRECT DEMOCRACY IN OREGON

LPRO: Legislative Policy and Research Office

BACKGROUND BRIEF

Since 1902, the Oregon Constitution has provided voters with three methods of directly affecting changes to the Oregon Revised Statutes (ORS) and the Oregon Constitution: the initiative, the referral and the referendum. While they differ somewhat in the process of getting to the ballot, the initiative, referral and referendum place the authority to change the law in the hands of the people.

THE INITIATIVE

The initiative process gives direct legislative power to the voters to enact new laws, change existing laws or amend the Oregon Constitution. Any person may be a chief petitioner of an initiative petition and act as the primary sponsor of an initiative. An initiative may have up to three chief petitioners.

An initiative, whether a change in ORS or an amendment to the Oregon Constitution, begins as an idea from citizens and citizens take that idea directly to citizens for their approval or rejection. This idea is drafted as a prospective petition.

The process begins with the collection of 1000 sponsorship signatures by the chief petitioner (s), the submission of the idea to the Secretary of State's office for verification of signatures. If the prospective petition contains the appropriate signatures, it is forwarded to the Attorney General for drafting of the ballot title. In addition, the Secretary of States' Office conducts the procedural constitutional review, reviewing the prospective petitions for compliance with the requirements established in the Oregon Constitution (Oregon Constitution, Article IV, §1, Article XVII and OAR 165-014-0028).

The constitutional requirements for statutory initiative petitions:

- Must contain a single subject or closely related subject;
- Must include the full text; and
- Must be legislative rather than administrative in nature

The constitutional requirements for a constitutional amendment:

<p><u>CONTENTS</u></p> <p>THE INITIATIVE</p> <p>THE REFERRAL</p> <p>THE REFERENDUM</p> <p>HISTORY OF INITIATIVE, REFERRAL AND REFERENDUM IN OREGON</p> <p>DIFFERENCES IN THE INITIATIVE AND REFERENDUM PROCESS BETWEEN STATES</p> <p>BALLOT TITLES AND COMMITTEE STATEMENTS</p> <p>CITIZENS' INITIATIVE REVIEW COMMISSION AND CITIZEN PANELS</p> <p>STAFF CONTACT</p> <p>ADDITIONAL RESOURCES</p>



DIRECT DEMOCRACY IN OREGON

- Multiple subjects that are not closely related must be voted on separately; and
- Amend rather than revise the constitution.

It is important to note that the verification process is not to consider the merits, feasible or cost of the idea, but only whether it meets the constitutional prescribed requirements.

Once a ballot title and summary have been finalized, the Secretary of State notifies the chief petitioner (s) in writing that they may begin to circulate signature sheets in order to collect signatures from registered voters. The Elections Division provides chief petitioners official templates used to prepare cover and signature sheets for circulation.

The chief petitioner monitors the collection and submission of signatures to the Secretary of State. All signatures must be submitted, no later than four months prior to the date of the next regularly scheduled General Election (the first Tuesday after the first Monday of November in even-numbered years).

Article IV, Section 1 of the Oregon Constitution establishes the number of signatures that must be gathered in order for a statutory or constitutional initiative to qualify for the ballot. The number of signatures required is the number of votes cast for Governor during the most recent gubernatorial election – six percent for statutory amendments and eight percent for constitutional amendments. To place an initiative on the November 2016 General Election ballot, the chief petitioners were required to gather 88,184 valid signatures for a statutory initiative, or 117,578 valid signatures for a constitutional initiative. In the 2016 General Election, 1,946,046 votes were

cast for governor. Therefore, to qualify for the 2018 General Election a:

- Referendum petitions requires four percent, or 77,842 signatures;
- Initiative petitions for statutory enactments require six percent, or 116,763 signatures; and
- Initiative petitions for constitutional amendments require eight percent, or 155,684 signatures.

THE REFERRAL

The referral process gives voters the opportunity to decide on Constitutional or statutory changes proposed by the Oregon Legislature. If both the Oregon House of Representatives and the Senate vote to send a measure to the state ballot, the measure is not subject to the Governor's veto power.

The chief petitioners of a legislative referral are members of the Legislative Assembly. When the Legislature refers a measure to voters', the Assembly may exercise its authority to write the ballot title and summary; explanatory statement committee and joint legislature argument committee in support. This is accomplished through the passage of senate or house measure. If the Legislative Assembly does not adopt a measure, referrals will have ballot titles drafted and certified by the Attorney General and members are appointed to a Joint Committee to draft an argument in support of the measure. The Joint Committee for an Argument in Support is composed of one Senator and two Representatives. The Argument in Support is not subject to legal challenge.



DIRECT DEMOCRACY IN OREGON

THE REFERENDUM

The referendum process allows voters the opportunity to reject legislation (Acts) adopted by the Oregon Legislature. The only Acts exempt from a referendum are those that have been vetoed and those with an emergency clause – Acts that the Legislative Assembly declares are necessary for the immediate preservation of the public peace, health, or safety and the support of state government and its existing institutions. These Acts become effective upon signature of the Governor.

Any person may become a chief petitioner of a referendum petition and act as the sponsor of the referendum.

For a referendum to qualify for the next regularly scheduled General Election, chief petitioners must receive written approval from the Secretary of State to circulate the text of the Act among registered voters. Chief petitioners must then obtain the necessary number of valid signatures and submit them to the Secretary of State no later than 90 days after the Legislature adjourns.

The Constitution sets the number of signatures required to qualify a referendum to the ballot at four percent of the number of votes cast during the most recent gubernatorial election. To place a referendum on the November 2016 General Election ballot, chief petitioners were required to gather 58,789 valid signatures.

If an Act is successfully referred to the general election ballot, the Act is not effective. It remains on hold until the voter determines

whether to support or reject the action of the Legislature.

HISTORY OF INITIATIVE, REFERRAL AND REFERENDUM IN OREGON

In 1902, 91 percent of voters approved an amendment to the Oregon Constitution to allow for the initiative and referendum process. As of November 2016, the people have passed 127 of the 367 initiative measures placed on the ballot and 23 of the 65 referenda on the ballot. During the same period, the Legislature has referred 434 measures to the people, of which 257 have passed¹.

DIFFERENCES IN THE INITIATIVE AND REFERENDUM PROCESS BETWEEN STATES

Oregon is one of 24 states that have some form of initiative process. There are notable differences amongst the states regarding the scope of their direct democracy process:

- Alaska, Idaho, Maine, Utah, Washington, and Wyoming only allow for initiatives that amend statute.
- Florida, Illinois, and Mississippi only allow for initiatives that amend their constitutions.
- Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Oregon, and South Dakota have direct initiative processes where

¹ [Oregon Blue Book, "Initiative, Referendum and Recall Introduction", n.p.](#)



DIRECT DEMOCRACY IN OREGON

proposals that qualify go directly to the ballot.

- Alaska, Maine, Massachusetts, Michigan, Mississippi, Nevada, Ohio, Utah, Washington, Wyoming, and U.S. Virgin Islands have indirect or partially indirect initiative processes where some or all proposals must be submitted to the legislature first.
- Some states have a waiting period, ranging from three to five years, for re-filing a defeated initiative.

The percentage of voters' signatures required to qualify an initiative to the ballot varies by state, some states have a geographic disbursement requirement on the number of signatures required from counties, legislative or congressional districts.

BALLOT TITLES AND COMMITTEE STATEMENTS

A petitioner for referendum or initiative measures must file prospective petitions with the Secretary of State, who then sends the prospective petitions to the Attorney General. The Attorney General creates a draft ballot title for each measure, which is then open to written public comment. If no comments are received on a draft title, the Attorney General may certify the title. If public comments are received, however, the Attorney General may choose whether to incorporate the comments or not. If a voter has submitted comments on a draft title but is dissatisfied with the Attorney General's title after the public comment period, the voter may petition the Supreme Court for review.

Once a measure has been submitted for signature verification, an explanatory statement committee is formed to draft an

impartial statement that is 500 words or less and easy to understand to explain the measure. The Committee is composed of two members appointed by the chief petitioners, two members appointed by the Secretary of State who are opponents of the measure, and one member selected by the other four members. For a Legislative Referral, the proponents are one Senator and one Representative. The explanatory statement is included in the voters' pamphlet.

Each measure is also analyzed by the Financial Estimate Committee. The Committee is composed of the Secretary of State, the Director of the Department of Administrative Services, the Director of Revenue, the state Treasurer, and a local government representative. It is charged with determining the financial impact of each measure and drafting a statement describing the impact. If the Committee determines the financial impact is greater than \$100,000, it may also draft an impartial 500 word statement explaining the financial impact of the measure. The financial estimate statement is published with the ballot measure.

CITIZENS' INITIATIVE REVIEW COMMISSION

In 2011, House Bill 2634 established the [Citizens' Initiative Review Commission](#) and citizen panels. The Commission is composed of 11 members: three members who have served in a prior capacity as an impartial fifth member of an explanatory statement committee, four members who have served in a prior capacity as moderators of a citizen panel, and four electors who have served on a prior citizen panel.

Panels are composed of 18 to 24 members who reflect the demographics of voters in the



DIRECT DEMOCRACY IN OREGON

state in regards to regional location, political party affiliation, age, and voting record. In forming the citizen panels, the Commission may also consider race, gender, and other criteria.

The Commission chooses at least one initiative per general election to review and convenes a separate panel per chosen initiative. Panels meet for five consecutive days and hold public hearings on their particular initiative. Panels must hear from proponents and opponents in equal amounts of time. Each panel has two moderators with training in mediation. Panels may draft several statements regarding each measure, including: a statement in support; a statement in opposition; an impartial statement of key findings; and a statement of additional policy considerations. These statements are included in the statewide voters' pamphlet.

and issue analysis for Oregon's legislative branch. Legislative Policy and Research Office does not provide legal advice. Background Briefs contain general information that is current as of the date of publication. Subsequent action by the legislative, executive or judicial branches may affect accuracy.

STAFF CONTACTS

Erin Seiler
Legislative Policy and Research Office
503-986-1647
Erin.Seiler@oregonlegislature.gov

ADDITIONAL RESOURCES

[Oregon Secretary of State](#)

[2016 State Initiative and Referendum Manual](#)

[ORESTAR Campaign Finance Database](#)

Please note that the Legislative Policy and Research Office provides centralized, nonpartisan research