

CONSTITUTIONAL AMENDMENTS

Contains state-by-state list of . . .

- Constitutional initiative provisions.
- Number of constitutional initiatives approved.
- Average number of initiated constitutional amendments per year.
- Average number of constitutional amendments (initiative + legislative) per year.
- Number of words in state constitution.

The idea that changes to a state constitution must be approved by voters dates back to 1780 when Massachusetts adopted its new state constitution in a referendum. Rhode Island was the first state to require voter approval for all constitutional amendments, in 1842. By the late nineteenth century, referendums on constitutional change were the norm, except in some Southern states. Today every state but Delaware has such a requirement.

Constitutional Initiatives

While the idea that a state constitution can only be amended with the direct approval of citizens is now uncontroversial, only 18 states allow citizens to propose amendments. In all other states, constitutional amendments can only be proposed by the legislature. Constitutional initiatives, the process by which citizens propose amendments, is also an old practice, dating back to 1902 when Oregon first adopted the constitutional initiative.

Difficulty of Using Initiatives

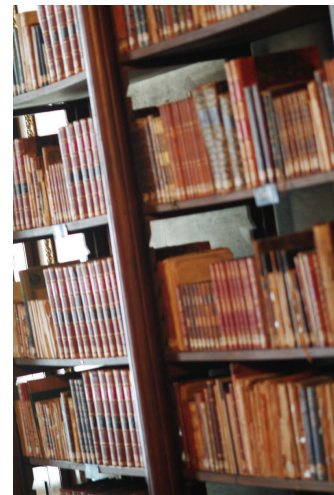
The hurdles for amending the constitution by initiative vary across the 18 initiative states. Most scholars agree that the two most significant hurdles for qualifying a measure on the ballot are the signature requirement (usually expressed as a percentage of the population that voted in a previous election) and whether or not a state has a "geographic dispersion" rule that requires signatures to be collected all across the state instead of in a single area. For

example, Massachusetts requires that no more than a quarter of petition signatures can come from any one county.

Table 1 lists states that allow constitutional initiatives and shows the signature requirement and whether or not there is a geographic dispersion requirement. The most common signature requirement is 10%, and states are evenly divided between requiring and not requiring a geographic dispersion of signatures. Two-thirds of the states have signature requirements in the 8% to 12% range, which might be called the "typical" requirement. Based on Table 1, states can be roughly grouped into three classes according to difficulty of using the initiative process: most difficult (AZ, MS, OK), typical (AR, CA, FL, IL, MI, MT, NE, NV, OH, OR, SD), and least difficult (CO, MA, MO, ND).

In addition to hurdles at the petition stage, there are hurdles at the approval stage. Five states (IL, MA, MS, NE, NV) require a proposed amendment to receive not only more votes in favor than against, but also require that the number of affirmative votes exceed a specified percentage of the total number of ballots cast. For example, Mississippi requires yes votes to be at least 40% of the number of ballot cast, including ballots containing abstentions on the proposed amendment.

Nevada has a unique requirement that an amendment be approved in two consecutive elections. No state requires a supermajority to approve an amendment, ex-



cept for Illinois which requires 60% approval if the amendment fails to receive yes votes on 50% of the ballots cast.

Frequency of Initiatives

Table 1 also lists the average number of successful initiative amendments per year for each state. Florida is the leader with 0.59 amendments per year through 2005. Following closely are Oregon (0.48), California (0.46), and Colorado (0.45).

Table 2 reports the total number of amendments and amendments per year for all 50 states, as well as the number of initiated amendments. It is clear that initiative amendments are relatively rare; the vast majority of constitutional amendments even in initiative states are proposed by the legislature. In terms of the average number of amendments, the leader is Alabama with 7.37 amendments per year on average. This number is somewhat misleading because about 70 percent of these amendments

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are local in nature, applying to only a single county. Other states with a high frequency of amendment are South Carolina (4.45 per year), Louisiana (4.30 per year), and California (4.07 per year). At the other extreme, Vermont averages only 0.25 amendments per year. Other states with few amendments are Tennessee (0.27 per year), Indiana (0.30 per year), Illinois (0.32 per year), Iowa (0.35 per year), and Kentucky (0.36 per year). The median number of amendments per year is 1.00.

There is no generally accepted principle about how difficult it should be to amend a constitution. The U.S. Constitution is at one extreme, with only 27 amendments since it was adopted in 1787. State constitutions, on the other hand, are adopted much more often. The U.S. Constitution is also much more skeletal, focusing for the most part on the structure of government, and containing only 4,440 words. State constitutions include much more material that might be considered of a "statutory"

nature, and even the shortest, New Hampshire's, contains more than twice as many words as the U.S. Constitution. Other than for aesthetic reasons, there is not a demonstrable advantage of one system over the other. The federal constitution has served the country well, and many state constitutions have served the states well.

"The 'typical' initiative state has a signature requirement in the 8% to 12% range."

State	Signatures (*distribution required)	Number of successful initiated amendments	Initiated amendments per year
Arizona (1911)	15	26	0.28
Arkansas (1910)	10*	30	0.32
California (1911)	8	43	0.46
Colorado (1910)	5	43	0.45
Florida (1968)	8*	22	0.59
Illinois (1970)	8	1	0.03
Massachusetts (1918)	3*	2	0.02
Michigan (1908)	10	18	0.19
Mississippi (1992)	12*	0	0.00
Missouri (1908)	5 1/3*	19	0.20
Montana (1972)	10*	5	0.15
Nebraska (1912)	10*	14	0.15
Nevada (1912)	10*	11	0.12
North Dakota (1914)	4	25	0.27
Ohio (1912)	10*	15	0.16
Oklahoma (1907)	15	26	0.27
Oregon (1902)	8	49	0.48
South Dakota (1972)	10	5	0.15

TABLE 2. Constitutional Amendments					
State	Year constitution adopted	Amendments since adoption	Initiated amendments since adoption	Amendments / year	Constitution, number of worlds
Alabama	1901	766	...	7.37	340,136
Alaska	1959	29	...	0.63	15,988
Arizona	1912	136	26	1.46	28,876
Arkansas	1874	91	30	0.69	59,500
California	1879	513	43	4.07	54,645
Colorado	1876	145	43	1.12	74,522
Connecticut	1965	29	...	0.73	17,256
Delaware	1897	138	...	1.28	19,000
Florida	1969	104	22	2.89	51,546
Georgia	1983	63	...	2.86	39,526
Hawaii	1959	104	...	2.26	20,774
Idaho	1890	117	...	1.02	24,232
Illinois	1971	11	1	0.32	16,510
Indiana	1851	46	...	0.30	10,379
Iowa	1857	52	...	0.35	12,616
Kansas	1861	93	...	0.65	12,296
Kentucky	1891	41	...	0.36	23,911
Louisiana	1975	129	...	4.30	54,112
Maine	1820	170	...	0.92	16,276
Maryland	1867	218	...	1.58	46,600
Massachusetts	1780	120	2	0.53	36,700
Michigan	1964	25	8	0.61	34,659
Minnesota	1858	118	...	0.80	11,547
Mississippi	1890	123	0	1.07	24,323
Missouri	1945	105	13	1.75	42,600
Montana	1973	30	5	0.94	13,145
Nebraska	1875	222	14	1.71	20,048
Nevada	1864	132	11	0.94	31,377
New Hampshire	1784	143	...	0.65	9,200
New Jersey	1948	38	...	0.67	22,956
New Mexico	1912	151	...	1.62	27,200
New York	1895	216	...	1.96	51,700
North Carolina	1971	34	...	1.00	16,532
North Dakota	1889	145	25	1.25	19,130
Ohio	1851	162	15	1.05	48,521
Oklahoma	1907	171	26	1.74	74,075
Oregon	1859	238	49	1.63	54,083
Pennsylvania	1968	30	...	0.81	27,711
Rhode Island	1986	8	...	0.42	10,908
South Carolina	1896	485	...	4.45	22,300
South Dakota	1889	212	5	1.83	27,675
Tennessee	1870	36	...	0.27	13,300
Texas	1876	439	...	3.40	90,000
Utah	1896	106	...	0.97	11,000
Vermont	1793	53	...	0.25	10,286
Virginia	1971	40	...	1.18	21,319
Washington	1889	96	...	0.83	33,564
West Virginia	1872	71	...	0.53	26,000
Wisconsin	1848	134	...	0.85	14,392
Wyoming	1890	94	...	0.82	31,800

“The vast majority of constitutional amendments even in initiative states are proposed by the legislature.”

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Data sources: Initiative provisions in Table 1 are from *For the Many or the Few: The Initiative, Public Policy, and American Democracy*, by John G. Matsusaka, published by University of Chicago Press, 2004 (Appendix A1.1). Number of successful initiatives is from the *IRI Historical Initiatives Database*. Number of amendments, year constitution was adopted, and number of words in constitution in Table 2 are from *The Book of the States*, published by Council of State Governments, 2006 edition (Table 1.1).

The Initiative and Referendum Institute is a nonprofit, nonpartisan educational organization headquartered at the University of Southern California, in Los Angeles, California. For other reports, please visit www.iandrinstitute.org or www.ballotwatch.org. Media inquiries, please contact Gilien Silsby, Director of Public Relations, (213) 740-9690 (office), (213) 500-8693 (cell), gsilsby@law.usc.edu.

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