



Information from the Lutheran Office of Public Policy—California
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Perspective and Recommendations on Initiative Reform

Our faith calls on us to be pro-active citizens on behalf of neighbors and all creation. Our involvement in the world helps fulfill our commitment as Christians to love justice and discern “what is right, good, and fitting” (*Church in Society—A Lutheran Perspective*, www.elca.org/socialstatements). Our Lutheran social teaching also calls on us to “promote sound, critical and creative citizenship and public service” and to “work to further democratic processes throughout the territory of this church.”

The Concern with Initiatives

With this understanding of our call to active citizenship in mind, it is time to review California’s initiative process. The initiative was established in this state in 1911 as a way for citizens to directly affect public policy. Reformers saw it as a powerful tool in California’s public policy-making process. Over the years, however, how the initiative process is used has evolved and changed in ways unforeseen by its original authors. The days are gone, for the most part, when a grassroots movement could qualify an initiative without major financial support. In recent times, there has been a dramatic increase in the number of ballot initiatives. The quality of these measures can vary widely.

Initiatives now provide a way of changing laws that is not subject to the safeguards and public scrutiny that are part of the normal legislative process. Despite the best efforts of the Legislative Analyst, and mandatory legislative policy committee hearings on qualified initiatives, there is often a lack of independent analysis of both the policy and fiscal changes in many initiatives. Without greater public discussion and review, good intention can become bad law and stay on the books for years to come. An example of this is California’s current “Three Strikes” law, where life sentences are imposed on offenders convicted of a third felony. The three strikes law applies even when the third offense is, in relative terms, a minor,

nonviolent one such as shoplifting or passing bad checks. Some initiative statutes require supermajority votes in the Legislature for amendment. Initiatives which amend the California Constitution can become symbolic, sacred political cows which prevent serious public discussion of vital issues of policy.

From the voter’s point of view, initiatives often contain highly technical and confusing language. Recent elections have seen multiple, sometimes dueling ballot measures where voters are faced with an overwhelming number of choices. The identity of financial backers of initiatives is often disguised from voters. Signatures to put initiatives on the ballot are gathered by an army of aggressive, paid signature gatherers who offer their own—sometimes highly inaccurate—views of ballot measures. These flaws can allow the process to be taken over by special interests which seek to “harvest” or manipulate public opinion for their cause. The result can be a costly and frustrating process for voters and taxpayers.

Yet, even with its flaws, the initiative process offers an important and popular way for the people to speak directly about critical issues affecting individuals, families and communities. This is especially important at times when voters need a way to circumvent the self-interests of candidates and elected officials, the paralysis of political fear, or the gridlock of competing interests.

Where Do We Go from Here?

Is there a way to modify the initiative process to make it more transparent and responsive to the needs of California without removing this special power from the people? There are several common sense ways to update the initiative process. These include:

- Improve the quality of drafting for initiatives by providing a system of early review. Increased

public scrutiny of the real impact and cost of proposed initiatives is needed, with special attention to possible unforeseen or unintended consequences. There should be a process for re-drafting of flawed measures or providing alternate measures for voter action.

- Increase public disclosure of the financing of initiatives, and create penalties when these reporting rules are not followed. The public has a right to know who is promoting various measures and who will benefit from their passage.
- Improve the signature qualification process. This could include revising the number of signatures required for a measure to get on the ballot. Paid signature gatherers should be visibly identified so that voters know who they are and who is providing funding for their activities.
- Clarify the content standard for initiatives. The current single subject rule could be tightened. Initiatives should cover only one subject and be written in clear, concise language so they can be easily understood.
- Initiatives should be subject to a thorough public review after a specified term of experience, such as two years. In the case of initiative statutes, changes could be made either by the Legislature or through additional propositions placed before voters by the Legislature. This practice is consistent with every other state where the initiative process exists. Constitutional amendments would continue to require voter approval, whether proposed by the Legislature or voter initiative.

Enactment of these changes will strengthen the democratic process in California and help ensure that initiatives are used only to enhance the power of the people.

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