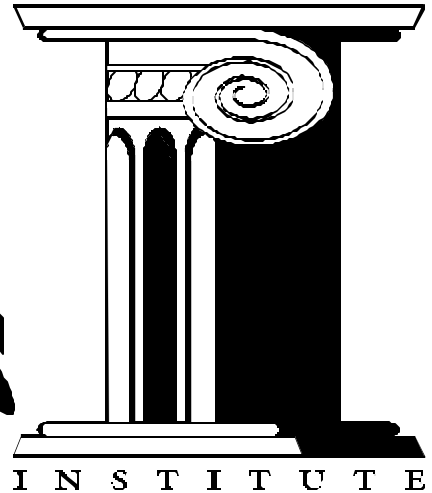


LIMITS



On Power and the Use of Coercion

Initiative and Referendum in the States

by Amy K. Frantz

The results are in from the November 5, 2002, ballot measures in the states.

Election-reform issues were on the ballots in several states. Voters rejected initiatives allowing for same-day voter registration in California and Colorado. With suggestions and allegations of voter fraud in various states around the nation, voters in those two states apparently decided allowing voter registration on the day of the election was not a good idea. Voters in Colorado also rejected a Constitutional Amendment initiative to allow vote-by-mail elections.

Tobacco users had mixed results around the country. Voters in Missouri rejected a statutory initiative to increase the tax on cigarettes by 55 cents per pack while Arizona voters approved a Legislative referendum to increase the tax by 60 cents per pack. Florida voters adopted a Constitutional Amendment initiative to ban

smoking in enclosed indoor workplaces, a move supported by just over 70 percent of the voters.

Read on for more results from other ballot measures in the states:

FLORIDA

Florida voters also approved a Constitutional Amendment initiative to reduce classroom sizes in government schools, setting maximum class sizes for pre-kindergarten through grade 12. The limits set in the Amendment must be met beginning with the 2010 school year. Opponents estimated the cost of implementing the Amendment to be between \$20 billion and \$27.5 billion, while supporters estimate the cost at not more than \$12 billion over eight years to build the new classrooms and hire new teachers needed to meet the Amendment's requirements.

Also approved in Florida is a Constitutional Amendment initiative to prohibit the confining of pregnant pigs if the confines prevent the animal from turning around freely. Florida is not a large pork-producing state, leading many opponents to conclude that this state was a test-case for similar bans in other states. Many have also questioned the common sense of granting pigs Constitutional rights; thus making the confining of such pigs not only illegal, but unconstitutional.

IDAHO

But do you really, really, really mean it?

Idaho voters approved a citizens' initiative in 1994 providing for term limits for elected officials in that state. The vote wasn't really a nail biter — it received the support

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of 59 percent of the voters. But evidently, the politicians in that state thought their constituents were just kidding around when they established limits on the number of years office holders could keep their jobs.

The State Legislature placed an advisory question on the 1998 ballot, but voters reaffirmed their support for term limits. Next, elected officials turned to the courts, but the Idaho Supreme Court ruled that term limits were Constitutional. Finally, Legislators decided to take matters into their own hands and passed a bill earlier this year to repeal the voter-passed term limits, even overriding the veto of Idaho's Governor.

Supporters of term limits petitioned to place a popular referendum on the November 2002 ballot asking voters whether or not they supported the repeal of term limits by the Legislature. However, it seems as if those opposed to term limits may have finally prevailed, at least for now. In a very close vote (a difference of only about 2,000 votes out of over 400,000 cast in the state), voters gave their approval, thus allowing the repeal of the term-limits law to stand. Some confusion among voters has been reported, as the vote was to approve or disapprove the Legislators' repeal of term limits, rather than a vote on

term limits themselves, prompting term-limits supporters to consider filing a lawsuit challenging the outcome of the election.

MASSACHUSETTS

Ballot Question 1, a statutory initiative to repeal the state income tax, was defeated by Massachusetts voters. Although the measure was rejected, 46 percent of the state's voters cast a vote in support of the elimination of the income tax, sending a message that many of the citizens of Massachusetts are tired of the state's high taxes.

NEVADA

In Nevada, voters rejected a Constitutional Amendment initiative to legalize marijuana for recreational purposes. The proposed Amendment made it legal for an individual at least 21 years of age to possess three ounces or less of marijuana.

OREGON

Oregon voters rejected a statutory initiative to create a government-funded health care system for all state residents.

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Direct Democracy: Can It Inspire Greater Voter Participation?

by Paul M. Weyrich

Many reforms have been talked about over the years to reinstill a sense of civic obligation in the American citizenry. There is a widespread feeling among opinion-makers that not enough Americans are taking their responsibility to vote seriously. The low turnout rate in elections provides factual evidence that there is reason to be concerned about the failure of Americans to vote.

Reform measures that have been advanced in recent years in the hope that they would encourage greater voter participation include Election Day registration, motor voter registration, the moving of registration deadlines closer to Election Day, and the so-called campaign finance reform. In my view, other than perhaps advancing registration deadlines, the measures cited above are not prudent reforms. Election Day voter registration and motor voter registration have increased the ability to commit fraud, undermining the integrity of our election process. In cases in which the abuse is widely reported, I doubt that these measures serve to increase the confidence of legitimate voters in the "system."

Then, there is campaign finance reform, which, in my view, really limits the free

speech rights of candidates. There are those who argue that requiring free airtime for candidates and parties would be a good idea. Usually, this kind of proposal would be instituted at the cost of clamping down on candidate spending. I clearly believe that candidates should be able to say what they want, when they want to, and to decide how best to say it, be it through their advertising or some other form of contact. If those free airtime proposals don't allow candidates and parties that freedom, just toss them in the trash can.

The ideas that have actually been implemented, namely Election Day registration and motor voter registration, lead me to think we need a counterreformation to undo the impact of these troublesome measures. Yet, there remains the problem that many Americans do not vote.

Let me suggest one reform that I do think is worthwhile, but is often discounted by the country's political elite and the opinion makers in the news media, many of whom harbor a deep distrust in the ability of the American people to make wise and judicious decisions. I am talking about the initiative and referendum (I&R) process. I have been an advocate of the process, and I am proud to serve on the national advisory

board of the Initiative & Referendum Institute, which works to acquaint citizens and opinion-makers about the process.

I&R is no instant cure-all for all that ails our civic life, but I would urge any citizen seeking to inspire more seriousness in American citizens about fulfilling their civic responsibilities to read a book called *Direct Democracy in Switzerland* by Greg Fossedal of the Alexis de Tocqueville Institute. It provides a useful juxtaposition to the current American system of elections that has come to make many voters feel as if they were shoppers in a supermarket forced to choose between the last two bananas available, both of which are spoiled. The only difference is how much.

Fossedal notes that in many Western democracies there are armies of lobbyists who seek to influence elected lawmakers. But because Switzerland has a well-established history of using the referendum process to guide its public policy on major decisions, the money that is spent on K Street in Washington to influence Congress is often spent in Switzerland on educating the citizenry.

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**Direct Democracy...
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The upshot is that citizens in Switzerland tend to take their civic obligations seriously. The news media concentrates its coverage more on issues, less on personalities, in the manner that our own country's news media would when reporting on the candidates during the course of a political campaign.

Swiss citizens, by and large, think that the I&R process is beneficial, and, while there are those in our country who express worry that the public will make bad decisions (as if Congress and our State Legislators never do), the attitude of many Swiss citizens is that if the decision is truly bad, then it can be undone. Many decisions have taken years to be voted into law, having received the same kind of deliberation that Members of Congress are expected to provide, but the difference is that it is the Swiss citizen who has provided it.

Fossedal suggests that the I&R process in the United States is often used as an

expression of pent-up frustration to make political elites heed the public's concern. Thus, a Proposition 13 is easy for its ideological opponents to dismiss as the revolt of the "spoiled" middle class. But concern over property taxes had been building for years in California only to be dismissed by the political elites. After the passage in 1978 of Proposition 13, you can bet California's Legislature took the citizenry's concern over property taxes more seriously.

Here it is often the case that I&R is a way for citizens to strike a blow against the "system." In Switzerland, however, it is truly part of the system of political decision-making. And the Swiss citizen is an important part of the system.

Why shouldn't the United States make similar moves toward greater use of I&R to truly involve citizens in the decision-making process?

In the mid-1990s, a group of conservatives, including myself, advocated a measure promoted by Rep. Peter Hoekstra (R-MI) to have a non-binding referendum on whether Congress should adopt a

Constitutional Amendment to limit the terms of U.S. Senators and U.S. Representatives. Hoekstra proposed that it be paid for by reducing the Congressional franking budget. That did not come to pass, but it is still a concept worth considering. The presence of a national advisory referendum might help to provide better focus as to why a national election matters.

I also believe that it would be a positive for our civic life if more initiative and referendum activity took place at the state and local level. Right now, only 27 states have the process.

I must caution conservatives that they should not expect the initiative and referendum process to necessarily be more helpful to our cause than the current system. It is my suspicion that in many states we would be able to successfully press our issues because I think the American public is instinctively conservative on many issues if they are willing to think long and hard about them. Having said that, as I have noted over the last several years, movement conservatives do not have a "moral majority" in this

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country in the way that I envisioned two decades ago. But the use of I&R would at least create the kind of debate that might allow us to persuade the voters — rather than the politicians holding elective office — about the correctness of our position and thereby allow us to make new converts to our cause.

An adverse result in a contest at the state level can also serve as a useful warning. While I would never want to see the kind of health care system that is on Oregon's ballot this year implemented, it is a matter for Oregon voters to decide. But if it does pass, this might help to wake up the conservative movement that in at least one so-called "trend-setting" state that there is concern about health care and we had better make sure that voters in other states are not feeling similar anxiety about that issue. And, if they are, we should start thinking about how we can work to prevent the passage of similar measures in other states or by Congress.

In Switzerland, most acts by Parliament can be subject to an optional referendum. I wonder if we would have

rushed to implement the "Great Society" had the voter been the one to pass final judgment on a package presented to them on the ballot. I think conservative arguments might very well have won the day, thus sparing the country of having to implement what proved to be costly, counterproductive social welfare programs.

On the other hand, the nuclear freeze movement might have succeeded if we had had a national vote, possibly derailing President Reagan's important initiatives to help bring an end to the Cold War. But not necessarily so. Remember that at one time it was thought that Bill Clinton had a good chance to pass national health care. In a legislative battle that had overtones of a national referendum campaign because both sides made such an effort to influence public opinion, the measure lost support and was never voted on. The more serious the discussion of the issue, the more the citizens came to realize the true consequences of what enacting national health care would mean to their own care.

But even our own political parties could make use of I&R.

Why not have our political parties foster a greater sense of participation in their members by allowing them to vote in the presidential primaries and caucuses on planks for the party platform? That, too, could inspire more grassroots activity and even more allegiance to parties in an era when the identification of voters with political parties is considered to be weak.

Just like any legislative battle, no policy question has a "final" victory guaranteed by the voters. Remember, that which is done by the initiative and referendum process can be undone too. But the difference is that it is the voter — not the Legislator — who has made the decision.

I rather doubt that after more than 200 years of reliance on our democratic-republican form of government that we would want to exchange it completely for Swiss style direct democracy. Fossedal's book provides a thorough examination of how Swiss institutions differ from our system and those of other western countries, and one of

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Iowa's State Budget: Spending Our Way to a Crisis

A new POLICY STUDY by David Hogberg and Amy K. Frantz of Public Interest Institute.

"One cause of the [state budget] crisis that has not received proper attention is spending."

To read this Study, visit Public Interest Institute's web site at www.limitedgovernment.org or contact the Institute to request a copy.

Direct Democracy... continued from page 5

the downsides that he sees is the lack of strong leadership in Switzerland that we have come to expect from our presidents, be they liberals like Harry Truman or conservatives like Ronald Reagan.

But as technology changes, making information more accessible than ever before, why shouldn't we think about using I&R, particularly at the state level and even with non-binding national advisory referendums, to make clear to our citizens that their input matters. In a 1999 paper presented to the Western Political Science Association, political scientist Mark Smith found that "direct legislation can increase turnout during midterm elections. By stimulating greater interest in politics, direct legislation encourages participation by some citizens who otherwise would not vote."

Our current campaign process has failed too often in recent elections to encourage greater voter participation, but the resurgence of grassroots campaigning this year may help

to bring some more voters out to the polls, and I hope that politicians continue to reach out directly to voters. I think in the long-run that continued reliance on grassroots campaigning will help to make voters feel they have a greater stake in the political process. But we should give serious consideration to other measures that can bring the citizens back into the process so that they realize that exercising their civic responsibility really matters. And one measure that truly is worth considering is greater use of the initiative and referendum process.

Paul M. Weyrich is Chairman and CEO of Free Congress Foundation (FCF). Reprinted with permission from FCF.

Free Congress Research and Education Foundation is on the front line of our nation's culture war, fighting to stop America's long slide into the cultural and moral decay of political correctness.

For more information, visit FCF's web site at www.freecongress.org or contact FCF at 717 Second Street NE, Washington, D.C. 20002.

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Had it passed, Measure 23 would have created the Oregon Comprehensive Health Care Finance Board to oversee the state's health-care system, also giving the Board the authority to increase income and payroll taxes to pay for the multi-billion-dollar program. Opponents of state-provided health care pointed to the problems and delays experienced in countries with nationalized health care, such as Canada and Great Britain. While "free" health care provided by the government might sound good to some, close to 80 percent of Oregon voters rejected this Amendment, apparently realizing there is no such thing as a free lunch.

For results on all state ballot measures, visit Initiative & Referendum Institute's web site at www.ballotwatch.org.

Amy K. Frantz is a Research Analyst with Public Interest Institute.

LIMITS Question of the Quarter:

Would you like to see issues and initiatives on Iowa's ballot?

Send your thoughts on this issue to us at public.interest.institute@limitedgovernment.org. We may publish some of your ideas in the next issue of *LIMITS*.

Slow Economy Means Government Must Cut Back Too

by Reid Lusk

The boom of economic prosperity that swept the nation during the 1990s saw state governments expanding their budgets at a dizzying pace. Data from the National Association of State Budget Officers shows that between 1996 and 2001, state government spending increased by 39% compared to a 19% increase in federal government spending. Even now as the economy has stumbled, taking income tax and sales tax revenue down with it, state spending continued to increase by an average of 2% in 2002. Not surprisingly, most states are facing substantial budget deficits. Additional factors like drought and a slump in tourism are contributing to Colorado's \$388 million budget shortfall. Were it not for the Taxpayers' Bill of Rights (TABOR) that limits the growth and use of tax revenues in Colorado, spending would likely be much higher and the state deficit much worse.

It's easy for a tax-and-spend Democrat like Rollie Heath to blame Colorado's budget woes on tax cuts in a desperate attempt to prop up his struggling campaign for Governor. But as Governor Bill Owens succinctly put it, "the states have an overspending problem, not a revenue problem."

In other words, the source of the trouble is not tax reductions. Rather, it is that bloated state governments have failed to decrease their excessive spending to adjust for falling revenues. About the same time Rollie Heath was working himself into a snit over Governor Owens' tax cuts, Cato Institute was lavishing the Governor with high marks in its latest annual Fiscal Policy Report Card on America's Governors (FPRC). The conservative think tank gave Owens its highest rating out of all the nation's Governors for his sound management of Colorado's public funds. Under Governor Owens' leadership, his numerous tax cuts have returned roughly \$1,500 to each family and benefited Colorado's economy by promoting business growth and investment. On the opposite side are "F" rated Governors like Gray Davis of California. Governor Davis grew California's budget by 40% in four years, turning a \$10 billion surplus into a \$24 billion deficit while continuing to propose tax hikes. The FPRC authors observe, "State governments have evolved into large, multi-billion dollar enterprises. The budget of California now exceeds \$100 billion and is larger than many nations' gross domestic

product." The FPRC cites plenty of empirical evidence and numerical data to convincingly demonstrate that economic prosperity is not created from growing government and raising taxes. Instead, it results from lowering taxes and reducing excess government spending. Among the findings:

- Jobs and businesses migrated to low-tax states during the 1990s.

- Unemployment was higher and personal income growth lower in the top 10 tax-hiking states vs. the top 10 tax-cutting states from 1990 to 2000.

- Job growth averaged 25% in tax-cutting states vs. 9% in tax-hiking states during the 1990s.

Although Colorado has a fiscally responsible Governor and fits comfortably into the tax-cutting category, keeping spending under control is still a challenge. Governor Owens warned the State Legislature more than a year ago of plummeting revenues, but they handed him a budget that increased spending by 7% anyway. In August, Denver City Council members, who already make a handsome salary of \$62,304 a year, had the audacity to ask for a 38% raise during a recession, when

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typical workers in the private sector had to settle for a fraction of that. Fortunately the voters turned down the Council's demands. But Council members and other city employees have been given unfettered personal use of city vehicles and are just now being pressured to give up these taxpayer-funded freebies.

Rollie Heath and his big government brethren are free to dismiss Cato Institute research as partisan spin, and to indulge in the illusion that tax cuts are the cause of budget deficits. To them, fiscal restraint is a foreign concept and anyone

who dares trim government excess is somehow evil. The reality is that many government officials are in denial and unwilling to restrain themselves from squandering the taxpayers' money. In dreaming up ever-expanding arrays of unnecessary government programs and services they set themselves up for failure when there's not enough revenue to pay for them. Then they run back to the trough expecting more from the taxpayers. This wasteful tax-and-spend cycle is simply unacceptable. As long as private citizens and businesses are forced to prioritize and restrain their spending during tough times, government should be required to do the same.

Reid Lusk is a Research Associate with Independence Institute.

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Independence Institute is a non-profit, non-partisan Colorado think tank. Its public policy research focuses on economic growth, education reform, local government effectiveness, and Constitutional rights.

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