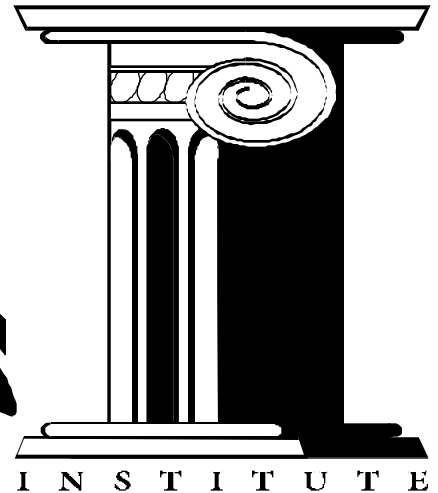


LIMITS



On Power and the Use of Power

Initiative and Referendum in the States

by Amy K. Frantz

The initiative process permits citizens to petition to place measures on their state's ballot. The referendum process allows the Legislature to place an issue on the ballot for the voters' decision.

Initiative and referendum give citizens the authority to override the Legislature when elected officials ignore the wishes of the citizens.

As a result, most citizen initiatives deal with issues Legislators are often hesitant to address, such as term limits, campaign finance, and taxes.

Twenty-four of the 50 states permit citizens to place measures on the ballot by initiative petition. Those 24 states (listed at right) offered many citizens' initiatives on the November 1996 ballot, including taxes, term limits, gambling, health care, campaign finance reform, victims' rights, and education.

The article beginning on page 2 of this issue of *LIMITS* highlights states whose voters

approved initiatives in November to limit taxes.

Citizen initiatives have been successful in limiting taxes in states that permit the initiative process. California's Proposition 13 to limit property taxes, approved by voters in 1978, began the tax revolt that continues in the 1990s. Voters in Colorado, Arizona, Florida, Missouri, Oklahoma, and many other states have approved initiatives making it harder to increase taxes. Legislators in those states have come to realize that when taxes are difficult to increase, they must limit government spending.

The initiative and referendum give citizens greater input in the political and governing process. In order to allow citizens' voices to be heard, initiative and referendum powers should be extended to all 50 states, and at the national level. •

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

INITIATIVE STATES (24)

Alaska
Arizona
Arkansas
California
Colorado
Florida
Idaho
Illinois
Maine
Massachusetts
Michigan
Mississippi
Missouri
Montana
Nebraska
Nevada
North Dakota
Ohio
Oklahoma
Oregon
South Dakota
Utah
Washington
Wyoming

Limiting Taxes Through Constitutional Amendments

Election Results from the States

by Amy K. Frantz

Citizens of 14 states voted on various tax measures on the ballot in the November 5, 1996 election. Some measures were constitutional amendments; others were statutory changes in state laws. The proposals ranged from restrictive limits on tax increases to raising taxes on cigarettes. Some of the states' proposals and the results are highlighted here.

CALIFORNIA

In California, voters approved Proposition 218, the Right to Vote on Taxes Act. This constitutional amendment requires a majority of voters in an election to approve any new general taxes or increase in existing general taxes by local governments. Revenue from a general tax goes into the general fund and is used for a variety of purposes. Special taxes are levied for a specific purpose. Existing law requires two-thirds of the voters to approve a special tax; Proposition 218 simply restates the existing law on special taxes.

Proposition 218 also closes loopholes local governments had found in California's Proposition 13. Proposition 13 was approved by voters in 1978 to limit property taxes. Local governments had been preventing property owners' right to vote on property taxes by calling proposed increases assessments or fees rather than what they really are — taxes.

With the approval of Proposition 218, new or higher property-related assessments, fees, and charges must be approved by property owners. Under the old system, property owners were considered to be in favor of an assessment unless an owner submitted a written protest. Now local governments are required to send a ballot to each affected property owner to approve property assessments. A local government is prohibited from imposing a new or higher assessment, fee, or charge (except for fees and charges for sewer, water, and garbage collection) unless a majority of the ballots submitted by property owners are in favor of the assessment.

Joel Fox, President of the Howard Jarvis Taxpayers Association, which sponsored Proposition 218, was pleased with the election results. "Just as with the campaign to pass Proposition 13, taxpayers showed that hard work and dedication to a just cause can overcome entrenched special interests with big money," Mr. Fox said.¹

FLORIDA

Florida also adopted a constitutional amendment to limit taxation. Florida voters overwhelmingly approved Question 1 by a margin of 69% to 31%. Question 1 amends the Florida Constitution to require

any new constitutionally-imposed state tax or fee to be approved by two-thirds of Florida's voters.

Florida's Constitution currently prohibits a state income tax. This constitutional amendment will make it more difficult to impose an income tax on Florida's citizens in the future. Grover Norquist of Americans for Tax Reform says the adoption of Question 1 means that "Florida will probably never have a state income tax."²

SOUTH DAKOTA

In South Dakota, voters approved Constitutional Amendment B by a margin of 74% to 26%, one of the largest margins of victory for a tax-limit amendment on the November ballots. Constitutional Amendment B requires any new state tax or any increase in an existing state tax to be approved either by a two-thirds vote of both houses of the South Dakota Legislature or by a majority of the citizens voting on a citizens' initiative.

Constitutional Amendment B clarifies and strengthens a previous South Dakota constitutional amendment requiring a Legislative supermajority, which had been interpreted to apply only to increases in existing taxes, not new taxes.

NEVADA

In Nevada, Question 11 was adopted by a 70% majority of the state's voters. Question 11, the Gibbons Tax Restraint Initiative, amends the Nevada Constitution to require a two-thirds supermajority vote by both chambers of the State Legislature to adopt a measure that generates or increases a tax, fee, assessment, rate, or any other form of public revenue. The Legislature may also, by a simple majority vote, refer a proposed measure to the voters for approval or rejection.

The Gibbons Tax Restraint Initiative was proposed by former Nevada Assemblyman Jim Gibbons. During his service in the Nevada Legislature, Mr. Gibbons attempted to enact a tax limit statute. Mr. Gibbons has had greater success taking his case directly to Nevada citizens to push for a constitutional amendment to limit taxes.

Changes in the Nevada Constitution are required to be approved by the voters in two consecutive elections. The Gibbons Tax Restraint Initiative was also approved by voters in the 1994 general election, and is now a part of Nevada's Constitution.

OREGON

Ballot Measure 47 was approved in Oregon to limit property taxes. This constitutional amendment will limit property taxes in 1997-1998 to the lesser of 90 percent of the 1995-1996 tax, or the 1994-1995 tax amount. For tax years following the 1997-1998 tax year, property tax increases are

limited to 3 percent annually, with some exceptions. Homeowners will receive most of the savings from the 3% cap, because residential property values in Oregon are increasing at a much higher rate than commercial property values.

Local governments' lost revenue may only be replaced by an increase in the state income tax, unless the voters approve replacement fees or charges. At least 50% of eligible voters must participate in an election in order for a voter-approved tax levy to be valid.

"...taxpayers showed that hard work and dedication to a just cause can overcome entrenched special interests with big money."

According to Mandy Rafool of the National Council of State Legislatures, this constitutional amendment gives Oregon one of the most restrictive property tax limits in the United States.³

OTHER STATES

Other states defeated proposed tax measures.

California voters rejected Proposition 217, which would have retroactively reinstated the top income tax brackets of 10 and 11 percent.

Colorado voters overwhelmingly defeated a constitutional amendment to eliminate the property tax exemption for

churches and other charitable nonprofit groups. The vote in Colorado was 83% against this amendment.

Unfortunately, not all tax limit initiatives on the ballot last November were successful. States which failed to approve tax limit amendments include Nebraska, which defeated Ballot Measure 412. This constitutional amendment would have placed limits on property taxes and required the State Legislature to establish standards of efficiency for delivery of local government services.

In 1996, several states were successful in approving constitutional limits on taxes. Taxpayer organizations in other states have already begun drafting new proposals and collecting signatures for the 1998 general election ballot.

Look for articles in future LIMITS issues about proposed constitutional tax limit amendments. •

Endnotes:

¹"Thanks to HJTA Members Proposition 218 Wins Big," *Taxing Times*, Howard Jarvis Taxpayers Association, Winter 1996.

²"Taxpayers to elected officials: Read our lips!!!," by Stephen Moore of the CATO Institute. Reprinted in *Taxpayers Network Monthly*, December 1996.

³"1996 State Tax and Budget Ballot Measures," David S. Liebschutz, *State Fiscal Brief*, Center for the Study of the States, December 1996.

Update on U.S. Constitutional Amendments

by Amy K. Frantz

TAX LIMITATION AMENDMENT

The Tax Limitation Amendment or "supermajority" amendment will be considered by the 105th Congress later this year. This amendment requires a two-thirds vote in the U.S. House of Representatives and the Senate to pass any legislation that increases taxes.

On April 15, 1996, a symbolic day to all American taxpayers, the U.S. House of Representatives voted on the Tax Limitation Amendment to the U.S. Constitution. This amendment requires a two-thirds vote on any bill that increases the internal revenue of the country by more than a de minimis amount. The amendment provides an exception to the two-thirds rule for national security emergencies.

The 1996 House vote of 243-177 showed strong support, but was not enough to approve the amendment.

Any U.S. constitutional amendment must receive a two-thirds vote (290 votes in the House, 67 in the Senate; if all members vote) and then must be ratified by 38 State Legislatures.

Several states require a supermajority vote (usually a two-thirds or three-fifths vote) by State Legislators to raise some or all of the state's taxes. Studies have shown that the states with supermajority

requirements have less tax and spending increases, more economic growth, and create more jobs, on average, than states without supermajority requirements.

Opponents of a supermajority amendment argue it would allow the minority to rule. Protecting the minority from the tyranny of the majority is the purpose of several constitutional provisions, including the First Amendment, which prohibits the majority from passing laws restricting free speech. Taxpayers have a right to their earnings, and more than a bare majority vote should be required to take more of those earnings from the taxpayers.

House and Senate members are currently scheduled to consider the Tax Limitation Amendment on April 15, 1997. We need the supermajority amendment to, as Senator Jon Kyl said, "make Congress find a way to meet its obligations without taking more from the pockets of the American people."¹

BALANCED BUDGET AMENDMENT

A second constitutional amendment that was revisited by the 105th Congress is the Balanced Budget Amendment. In the last Congress, the Amendment was approved by

the House of Representatives, but was narrowly defeated by the Senate.

The proposed Balanced Budget Amendment requires the federal budget to be in balance by the year 2002 or two years after three-fourths of the states ratify the Amendment, whichever is later. A three-fifths vote in both the House of Representatives and the Senate is necessary to run a deficit, except during a military conflict.

On March 4, 1997, the U.S. Senate voted on the proposed Balanced Budget Amendment to the U.S. Constitution. The Senate voted 66-34 in favor of the Balanced Budget Amendment, one vote short of the two-thirds required.

In January, the Iowa State Legislature adopted a resolution requesting that Congress submit a balanced budget amendment to the states. Iowa's U.S. Senators Grassley and Harkin both voted in favor of the Balanced Budget Amendment. •

Endnote:

¹"Tax Amendment Proponents Face Uphill Fight in Senate," *Congressional Quarterly*, April 20, 1996, p. 1032.

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

Requiring Local Governments to Utilize Full Cost Accounting Methods

by John H. Turner

The solid waste industry presents an example of the need for state legislation that mandates the use of full cost accounting methods by local governments and the public availability of actual program costs. As the Virginia General Assembly has noted, it is common knowledge that “solid waste collection, disposal, and recycling services and facilities may be purchased by localities from private companies for less money than it would cost the localities to provide the services and facilities.” Private companies have already demonstrated their effectiveness in meeting the complex demands related to solid waste management. However, in order to demonstrate the cost-effectiveness of private collection or disposal, it is important that public entities use accounting methods that make public the true costs of their services.

Most communities use an accounting procedure called “fund accounting,” which does not identify the actual costs of program implementation and often records costs in several different programs. In contrast, full cost accounting — sometimes called activity-based costing — seeks to account for, in the words of the Reason Foundation, “every hour of work, each piece of equipment, as well as all capital, facility, and overhead costs of an

organization.” The U.S. Environmental Protection Agency (EPA) has defined full cost accounting as a “systematic approach for identifying, summing, and reporting the actual costs of solid waste management, taking into account past and future outlays, oversight and support service (overhead) costs, and operating costs.”

State legislatures should enact laws that require the adoption and implementation of full cost accounting methods by local governments that conduct solid waste management programs. Most local governments continue to use “fund accounting,” by grouping together costs and revenues and by allocating overhead expenses between various departments. The enactment of state legislation will help to ensure that standardized, meaningful accounting methods are used. The “true” costs of compliance by local governments with state and federal mandates cannot be ascertained in the absence of accounting programs that detail those costs.

Full cost accounting principles are supported by a wide variety of governmental agencies, environmental groups, and coalitions, including: EPA, state and local environmental agencies and authorities, Solid Waste Association of North America, American Public

Works Association, National League of Cities, National Association of Counties, mayors of several cities, and respected institutes such as the Reason Foundation and the Tellus Institute. As the EPA summary of the contents of their guidance document notes, “the benefits of full cost accounting include determining the actual municipal solid waste (MSW) costs, explaining MSW costs more clearly to citizens, adopting a business-like approach to providing MSW services, and increasing cost-effectiveness through fine-tuning MSW management.”

Yet full cost accounting methods, while eminently logical and fair and seemingly endorsed by most every observer, are not used by most communities. As a recent *Governing* article noted, while most local governments seem to acknowledge the utility of full cost accounting, “it is up to elected officials to push the...approach.”¹ The article shoots down two misperceptions about full cost accounting, that it is complex (it isn’t to any accountant trained in traditional generally accepted accounting principles [GAAP]), and that it is not used because of some perceived inherent difficulty. The real reason it is not widely

continued on page 6

continued from page 5

used, the article notes, is because of bureaucratic inertia. As accounting Professor Rhoda Icerman noted, public sector accountants are reluctant to use full cost accounting because “it’s value laden, so accountants would have to make choices, and they’d just as soon hold this halo of objectivity over their heads and say ‘just give me the facts’ when full cost accounting would force them to make choices about where to lay certain costs.”

Claims that full cost accounting is expensive to implement are not correct. There are a number of full cost accounting guidance documents from state agencies and the EPA. Software programs are being marketed by private firms, and Tellus Institute, a nonprofit organization, has available a program called “WastePlan” to incorporate and use full cost accounting procedures. Full cost accounting is simply not an arcane, highly complex, overly technical concept; instead, what we’re basically talking about is the accounting methods that every accountant should have learned in high school or college.

Full cost accounting is quite comparable to, and no more complex than, the accounting mechanisms used by private companies and individuals. But because of the inertia problem, full cost accounting will simply not be used to any significant degree

anytime soon in the absence of legislation. That is why several states — North Carolina, South Carolina, Florida, Indiana, Minnesota, and Mississippi — have already adopted statutes that mandate the use of full cost accounting by local governments, and in most instances require that the information be made available to the public.

Full cost accounting can reveal operating inefficiencies. Yet it is not a Trojan horse for privatization. Instead, it is a mechanism that allows communities to demonstrate for their taxpayers the efficiencies of their programs — regardless of whether they are conducted by public agencies or private parties pursuant to franchises or contracts.

Studies have consistently demonstrated the cost savings that result from private, rather than public, waste collection. But if communities can “hide” the cost of providing their services, or simply have no idea how much it costs, there is no way to make a fair comparison.

Full cost accounting is one of the primary methods for ensuring that competition exists for the provision of solid waste management services and that all providers operate in an efficient manner. Communities can benefit from full cost accounting even if they never contract out because they have a better idea of their costs. Also, solid waste departments can better justify their activities and protect themselves from budget cuts. City employees

might also benefit if costs for vehicles, maintenance, and the like are reduced as a result of full cost accounting, freeing a bigger percentage of the budget for salaries and benefits.

Full cost accounting results in at least six tangible benefits for local governments:

(1) Far from being an “unfunded mandate,” it will save local governments many thousands of dollars by promoting more efficient services, through restructuring, the creating of more efficient procedures, improved resource allocation, or public-private partnerships. Phoenix has saved over \$25 million through the adoption of modern accounting methods and resultant efficiencies. Indianapolis has saved over \$38 million.

(2) Local governments will have better control over fleet maintenance, pension and benefit liability, legal service, insurance or self-insurance, and shared overhead costs, because those will be detailed.

(3) Unless local governments know how much it costs to perform an activity, public officials cannot ascertain whether the service is a good use of tax dollars and is provided at a competitive cost.

(4) Full cost accounting identifies the true costs of services so that local government resources can be allocated wisely.

(5) It leads to fair and accurate methods to compare public and private service providers. As the Reason

Foundation has noted, “(b)y excluding indirect costs such as fringe benefits, facility costs, management and oversight, and utility and pension costs, cost comparisons tend to unfairly favor government delivery. A study of 68 cities found that cities on average underestimated their true costs of service delivery by 30 percent. By adding up the costs of government delivery, (full cost accounting) systems eliminate this problem and put public units and private firms on equal footing when competing to deliver services.”²

(6) Finally, “by exposing the full costs of performing each function of city hall, (full cost accounting) can assist (local government) managers with discovering and eradicating inefficiencies in their departments. (It) can also reduce costs by stimulating healthy competition between government units.”³

William Eggers wrote in *Policy Review* that, according to Mayor Goldsmith of Indianapolis, as a result of the adoption of full cost accounting, “all sorts of wonderful things occur.” For example, “(t)he [city transportation department] crew discovered that they could fill potholes with four workers rather than eight and one truck rather than two. The city crew eventually came in with a bid thousands of dollars under the cost of the closest private bidder, saving the city 25 percent from its previous costs.”⁴ Full cost

accounting works — it saves money and promotes efficient and competitive provision of services. Of course, full cost accounting techniques can be used for any government-conducted or managed activity. Solid waste management is a highly visible activity, and represents an area in which modern accounting methods and public awareness can promote significant cost savings and competition.

Data on costs are, of course, useful only to the extent that they can be examined in light of generally accepted accounting principles. It is, therefore, important both that there be statewide legislation on the subject, and that the legislation either specify or delegate to a regulatory agency how reporting entities should engage in full cost accounting. It is of critical importance that the legislation, in a manner consistent with the statutes in Indiana, Florida, North Carolina, and

South Carolina, require local governments to publicize the accounting information. It is important that the public know what they are paying for, and how efficiently programs are being operated. •

Endnotes:

¹ “A Dollar’s Worth of Government,” Jonathan Walters, *Governing*, July 1996, pp. 45-46.

² “Rightsizing Government: Lessons From America’s Public-Sector Innovators,” William Eggers, Reason Foundation, January 1994, p. 8.

³ *Ibid.*

⁴ “City Lights: America’s Boldest Mayors,” William Eggers, *Policy Review*, Summer 1993.

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LIMITS is our quarterly membership newsletter arriving in March, June, September, and December. It consists of short articles and essays on protection of human rights by limiting the powers of government. If you have an article that you believe is worth sharing, submit it to:

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Would You Believe...

Imagine, for example, that you buy a share in General Motors. GM then earns a dollar per share. GM pays 34 cents in corporate taxes on that dollar and sends you a dividend check for the remaining 66 cents. You pay personal income tax on that dividend, probably at a rate of 28 percent or higher. After this double taxation, you end up with less than 48 cents of the dollar. Assuming that you have an estate of over a few million, the government isn't done with you yet. If you leave that 48 cents in your estate, the federal government takes a further 55 percent of the 48 cents when you die, leaving your heirs with a measly 21 cents of the original dollar of income.

The invitation sent to public housing tenants, officials, and HUD employees for the 1995 National Tenant Organization convention was like a vacation brochure, even though it was sent under the guise of a training session. It listed attractions like casinos, beaches, snorkeling, touring, and fine dining, all at the Casino Hotel and Sands Beach Resort in San Juan, Puerto Rico. Two hundred sixty people accepted the offer. The only problem is, they didn't pay for it — the taxpayers did, to the tune of \$325,000. Not much training took place, as you might imagine.

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