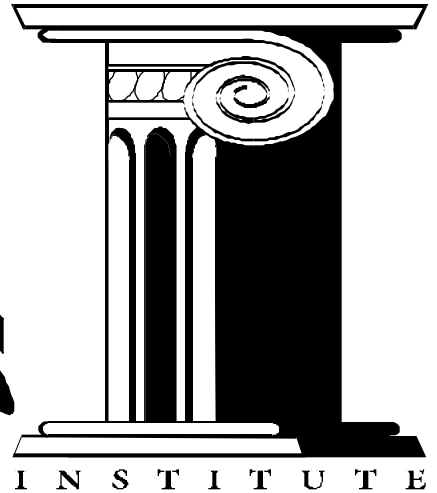


LIMITS



On Power and the Use of Power

Initiatives, Referendums Are Here to Stay

by David Brunori

On a professional level, most tax practitioners do not concern themselves much with initiatives and referendums. Yet this process, the one by which citizens get to vote directly to determine the course of the law, is among the hottest topics in state politics.

Every year, hundreds of measures are put to a popular vote in the 24 states that allow initiatives and referendums. And many of these measures, of course, deal with tax policy. In fact, it was the legendary California property tax initiative Proposition 13 that kick-started the modern-day initiative-referendum movement. In the age of the politics of antitaxation, it is not surprising that taxes have played an important role in this quintessential political event.

To the extent that tax professionals give any thought to initiatives and referendums, they usually are ardent critics of

the process. The thought of ordinary citizens creating complicated tax laws strikes many professionals as absurd. Those traditionally involved in tax policymaking (tax lawyers, public finance economists, legislative staff) are both highly educated and, more important, experienced. Determining what makes sound tax policy involves knowledge of the law, accounting, and economics. It involves anticipating the ramifications of the proposed policies. Many of the concepts are simply hard to understand. I have heard more than one tax practitioner say that tax policy is far too important and complex to be left to the voters.

I admit that I have shared this elitist view of direct democracy, especially as it relates to tax policy. I, after all, have read the work of Adam Smith and Stanley Surrey. I have followed the legislative process and the deliberations of the

experts at Treasury and on Capitol Hill as well as in the state capitols. I have known and met some giants in the field. Certainly tax policy can't be left to the hoi polloi.

I have also always been very suspicious of those who champion direct democracy. For the last quarter century, initiatives and referendums have been used to limit government, impose term limits, and assault representative government. Initiatives and referendums seemed always to be pushed by those who truly hated government. While I remained an unrepentant believer in the possibilities of good government, there seemed to be a whole army out there bent on dismantling the public sector.

I here confess, however, that I am changing my mind on the subject of initiatives and referendums.

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I spent the weekend of May 7 to 9 at a fascinating conference sponsored by the Initiative and Referendum Institute in Washington. I entered a skeptic and emerged a (mildly) enthusiastic supporter. I learned several things that weekend.

Initiatives and Referendums Have Strong Bipartisan Support

I feared that the conference would be dominated by anti-government, right-wing, and eccentric zealots. It was anything but.

To the great credit of Dane Waters, President of the Institute, the conference included both proponents and harsh critics of initiatives and referendums. The proponents included many arch-conservatives, such as Ron Unz (who led the anti-bilingual-education campaign in California); noted antitaxer Grover Norquist; and Eric O'Keefe, a leading term-limits supporter. That such conservative leaders were firmly in the initiative-and-referendum camp did not surprise me, because their causes have benefitted mightily from the movement.

What surprised me was the testimonials from people in organizations that can hardly be considered right-wing. Representatives of [U.S. Public Interest Research Group] USPIRG, the Humane Society, Americans for Medical Rights

(advocates of marijuana for medical use), and several environmental groups talked approvingly of direct democracy in general and the initiative process in particular. These folks were unabashed and unapologetic supporters of initiatives and referendums. They were from groups traditionally viewed as liberal and argued that people at the mercy of the rich and powerful needed initiatives and referendums. Their argument was simply that certain people (the poor) and things (the environment, animals) needed protection and a voice in a world dominated by rich and powerful business interests. Because these business interests had a disproportionate influence on elected officials, initiatives and referendums helped level the playing field.

People on all sides of the political spectrum are using or planning to use initiatives and referendums to advance their agendas.

Critics Have Focused on the Wrong Issues

Opponents have been focused on the subject of the measures put to a vote in initiative-and-referendum states. Most of the criticism has been from people (like me) who have disagreed with the substance of the issue up for a particular vote. Could initiatives and referendums work on issues that I cared about? I

thought of my pet peeve, targeted tax incentives. Now there is an area dominated by moneyed interests. Would the public support subsidies for multibillion-dollar corporations? I began to see the possibilities of the initiative-and-referendum process as a means of countering the proliferation of tax expenditures. As I tried to reconcile these possibilities with my skepticism of initiatives and referendums, I realized that my problem was not that the people

I began to see the possibilities of the initiative-and-referendum process as a means of countering the proliferation of tax expenditures.

were voting — it was that the people were voting against me.

The truth is, what could be more democratic (in the greatest democracy that ever was) than having the people decide? Forget for a moment about the faults and frailties of initiatives and referendums; focus instead on what it means to have the people decide important affairs of state. Is that not what democracy is all about? If people are rational enough to choose representatives, are they not rational enough to make decisions to term limits? Bear traps? Pot smoking?

It is difficult to argue against initiatives and referen-

dums. To do so is to say that the people are incapable of making difficult and important decisions in public policy matters. While many people hold to these beliefs, denying the legitimacy of letting the people choose runs counter to basic democratic principles.

Initiatives and Referendums Are Not Going Away

Whether one agrees with the premise of initiatives and referendums or not is almost irrelevant. The truth is that initiatives and referendums are and will remain dominant forces in state politics and policymaking. As noted earlier, 24 states currently allow initiatives and referendums. The number of measures put to a vote continues to grow. Initiatives may be adopted in Minnesota (they appear likely to pass next year), Texas, and Rhode Island. They are under serious consideration in at least seven other states. Legislation has even been introduced in Congress to allow initiatives at the federal level, although this would require a constitutional amendment.

That initiatives and referendums will continue to be a major part of the political process is evidenced by the growing number of academics conducting research on the effects of direct democracy. To be sure, this research is highlighting many of the problems with initiatives and referendums, but that in turn is being

used to improve the process — not eliminate it.

While initiatives and referendums have traditionally been neglected by the press, noted journalists such as Pulitzer Prize winner David Broder are now devoting substantial amounts of time to the subject. Increased press scrutiny is often accompanied by harsh criticism. But the debate proves that initiatives and referendums are here to stay.

Initiatives, Referendums, and Tax Policy

Taxes have been one of the dominant policy areas in the initiatives-and-referendums field. In the 1990s, over 150 tax measures have been put to a vote in initiative-and-referendum states. At least 27 states have tax and expenditure limitations, most of which arose through the initiative-and-referendum process. And 15 states require either supermajorities of their legislatures or a supermajority of citizens to approve tax increases. (Many of these supermajorities were adopted through the initiative-and-referendum process as well.) Ever since Proposition 13, it has been an important tool in shaping the tax policy debate. Certainly in the states where it is practiced, those concerned with how the government raises revenue and expends public

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funds must be fully versed in the initiative-and-referendum process.

In the modern era, tax initiatives and referendums have been used almost exclusively to limit the taxing authority of government. Professor John Matsusaka of the University of Southern California found that those states that used initiatives and referendums had much slower growth in both tax revenue and government expenditures than states that did not over the last 30 years. Matsusaka concluded that the process helped slow government growth. While that elicited nods of approval from the antitax crowd, he offered more heartening evidence for those who do not think slowing government growth is necessarily a good thing. It seems that for the first 40 years of the century, those states with initiatives and referendums actually had greater tax revenue and expenditure growth than states without them. That is, initiatives and referendums actually served as a catalyst for activist government.

Matsusaka's research shows that initiatives and referendums do not lead automatically to smaller, less active government. And a reasonable explanation for the time differences in Matsusaka's research is simply this: In the first half of the century, citizens were less conservative than the governing institutions and political leader-

ship. Thus, initiatives and referendums produced more active government. In the second half of the century, the reverse has been true. Citizens on the whole were more conservative than the governing institutions, and the initiatives reflected their desire for smaller government. (In fact, the initiative-and-referendum movement helped usher in a host of "liberal" reforms, such

Initiative-and-referendum states produce more, and more restrictive, tax limitations.

as women's suffrage and direct voting for senators, in the early part of the century.)

Peter Sepp of the National Taxpayers Union was much more strident than Matsusaka in his support for initiatives and referendums as a tax-cutting tool. Sepp's research indicated that states with initiatives and referendums have much more restrictive tax and expenditure limitations (constitutional rather than statutory limitations) than states without initiatives and referendums. This is true even for those states without initiative and referendums that have managed to adopt some form of tax and expenditure limitations. Sepp's conclusions and those of Matsusaka are consistent. Initiative-and-referendum states produce more, and more restrictive, tax limitations.

The conservative outcomes in votes on initiative-and-referendum tax questions reflect the times in which we are living. I personally disagree with the supermajority requirements; I find them undemocratic. I believe that the government, through our elected representatives, needs the flexibility to raise revenue to meet public service demands. But that has little to do with the legitimacy of direct democracy. Those who believe as I do must convince the voters that their ideas are right.

Lingering Skepticism

While there is support from both conservatives and liberals, initiatives and referendums are not without faults. There are concerns that special interests are starting to dominate the process. That is, the wealthy are spending money on initiative campaigns (signature gathering, ads, etc.) to advance their narrow interests. Professor Dan Smith of the University of Denver pointed out that Florida's tax limitation initiative (Amendment 1, not to be confused with the Colorado tax limitation provision) was financed by the state's powerful sugar industry. There are many similar anecdotes of powerful forces behind the "populist" initiative-and-referendum movement. And I heard these stories about conservative forces (usually big business) as

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Initiative and Referendum in the States

by Amy K. Frantz

This is the latest news from a few of the states that allow initiative and referendum:

ALASKA

A group of private citizens from the Anchorage area is circulating a petition to place an initiative limiting property taxes on the ballot in November 2000. The statutory initiative caps local property taxes and limits increases in property assessments and taxes to a maximum of two percent each year.

The goal of the initiative is for property owners in Alaska “to have a stable tax so people know what they have to pay every year,” said restaurant owner and initiative sponsor Uwe Kalenka (State Tax Notes, June 21, 1999, p. 2033).

CALIFORNIA

Al Shugart, “a 68-year-old software magnate whose only political experience is running his dog for Congress,” (Roll Call, July 26, 1999, p. 13) is the sponsor of an initiative to allow California voters to choose “none of the above” (NOTA) on ballots for state and federal offices. The initiative, which will appear on the March 7, 2000 primary ballot, is modeled after Nevada’s “none of the above” law, which was adopted in 1975. “None of the above”

is non-binding, meaning even if NOTA receives the most votes in an election, the office would be won by the candidate with the most votes.

MISSOURI

A group opposed to capital punishment, Missourians Working for Life, is collecting signatures to place a referendum on the November 2000 ballot to abolish the death penalty in that state. The ballot language calls for Missouri to replace the death penalty with life imprisonment without parole. Supporters of the referendum must gather 80,000 signatures by May 7, 2000. A similar petition drive in 1996 failed to gather enough signatures to qualify for the ballot.

WASHINGTON

Initiative 695 should appear on the ballot in Washington state on November 2, 1999. Supporters needed 179,000 signatures to qualify for the ballot, but the all-volunteer organization supporting the initiative collected 450,000 signatures, indicating overwhelming support for placing I-695 on the ballot this fall.

I-695 has two parts. The first would cap the state’s vehicle license fee at \$30 per year, regardless of the value or age of the vehicle. The state’s

license fee now is 2.2 percent of the value of the car (the owner of a \$20,000 car must currently pay \$440 in license fees).

The second part of the initiative requires voter approval for any increase in state and local taxes and license fees.

A June 20, 1999 survey by Rasmussen Research, commissioned by the Initiative and Referendum Institute, found that 72.6 percent of likely voters in Washington state support this measure.

Opponents of the initiative, including elected state government officials and organized labor organizations, will most likely fight tooth and nail to defeat I-695. Washington’s Governor Gary Locke has already asserted that adopting the initiative will prevent local law enforcement from protecting families and property owners. (Associated Press article by David Ammons, from the Initiative and Referendum Institute, July 6, 1999.) What won’t tax and spenders say to scare citizens into voting against a tax cut?

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well as liberal forces (government employee unions). Most of the people at the conference, however, believed that this problem could be overcome by full and comprehensive campaign disclosure.

There is also the question of whether citizens have access to the requisite amount of information to make a rational decision. In the tax area, most initiative-and-referendum measures deal with imposing limitations and with questions of rate increases. They rarely involve highly technical issues (i.e., citizens are not asked to weigh in on new formulary apportionment proposals). The academic researchers at the conference were split on whether voters were "informed" enough. Professor Todd Donovan of Western Washington University found that voters generally gathered the necessary information to support their preferences. Denver's Dam Smith was much more pessimistic. His research concluded that many voters are not well-informed, do not understand the ballot questions, and are easily swayed by slick advertising. There was almost universal agreement that more research must be done.

There were also more philosophical questions raised, in particular by David Broder, about the effects of initiatives and referendums on our representative form of government, which has served this nation

well for more than two centuries. Representative government is more deliberative and likely to compromise than direct democracy. And there are those who question whether a system based on an up-or-down majority vote is better. But the truth is that few if any advocates of initiatives and referendums call for an end to representative government. What they advocate is a dual system in which both the public and their representatives have a direct role to play. Still, determining what issues are more appropriate for the legislature is a difficult task. (In the same respect, the argument that initiatives and referendums could restrict civil rights and liberties was met with the answer that we are not talking about repealing the Bill of Rights!)

Into the Future

I am convinced that initiatives and referendums will remain a very important part of the political process in the states. Tax policy will continue to be shaped, directly and indirectly, by the process of direct democracy. For those who believe in lower taxes and limited government, that is a good thing; the movement will be a limiting force, at least in the foreseeable future. Those who believe that government has an important role to play in society will have to work harder. In addition to money and commitment, they will need

a convincing message. Crafting one will be difficult. Reversing some of the decisions that limited taxing authority will be even more difficult. A 1998 Los Angeles Times poll found that 66 percent of California voters would support Proposition 13 today.

But the answer is not to limit initiatives and referendums. Rather, people with good ideas must convince the voting public that their cause is just.

David Brunori is State Tax Notes Contributing Editor. Copyright 1999 Tax Analysts. Used with permission.

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Why Not Vouchers for Tuition? Food Stamps Are Food Vouchers

by Deroy Murdock

“Vouchers are daggers that plunge into the heart of what is the American way,” Sen. Chuck Schumer, a New York Democrat, told a May 15 United Federation of Teachers, or UFT. According to the *New York Post*'s Maria Alvarez, Schumer claimed that spending public dollars on private schools will “develop chaos and divide our country on religion and race.”

Schumer is an old-line liberal who clearly speaks his mind without the benefit of modern-day weasel words. Now he is politically shouting “fire” in a packed Carnegie Hall.

While Schumer sees a conflagration, New York Mayor Rudy Giuliani seeks to ignite a pilot light. Specifically, he wants to test vouchers for two to three years in just one of New York's 32 school districts. Of the city's 1.1 million public-school students, about 3,000 poor kids would receive vouchers averaging \$6,500, redeemable at private or parochial campuses.

“Let's see if it works,” Giuliani suggests in his Jan. 14 State of the City address. “If it does work,” he added, “maybe we can have the courage to present another alternative to our children.”

Gotham's political establishment has aimed high-pressure fire hoses on this modest pro-

posal. New York City schools chancellor Rudy Crew threatened to resign. UFT president Randi Weingarten said, “Vouchers would be absolutely destructive to us as a community and a society.” Democratic Rep. Charles Rangel complained that “the mayor is directing his sledgehammer politics at the schools now, and the city's kids are the losers.”

Why are liberals so allergic to school vouchers? After all, they support many other kinds of vouchers. They are simply one way to give the needy both the finances and the freedom to shop for the goods and services they want.

Food stamps, for instance, are food vouchers. Though problematic, this program could be worse. When it was launched in 1964, Uncle Sam could have built government-run supermarkets to sell congressionally approved groceries at politically fixed prices. Instead, Washington wisely gave vouchers to the poor to buy whatever they found appetizing — besides alcohol, tobacco, and cosmetics.

As the Pacific Research Institute's Joanna Elachi explains, federal vouchers help low-income parents fund day-care that appeals to them and their children. Section 8 rental vouchers allow the poor to escape squalid public-housing

projects and instead inhabit comfortable, private apartments.

And, of course, educational vouchers already abound. The G.I. Bill is a voucher program that helps veterans study at public, private, or parochial colleges. Ditto Pell Grants and National Direct Student Loans, or NDSLs, essentially vouchers that must be repaid.

These postsecondary educational instruments prove that statist, antivoucher arguments are all wet. Grade-school vouchers, they warn, will cause the collapse of public education.

So why haven't Pell Grant-wielding Stanford students run University of California at Berkeley into bankruptcy? Why haven't NDSLs used by University of Pennsylvania scholars placed Penn State “at risk”? In fact, the opposite is true. To attract students, competing public and private colleges must provide quality instruction. Dozens of publications help teens and parents choose from an array of universities ranked by academic excellence, extracurricular activities, and even beer consumption. To paraphrase Mao Tse-tung, a hundred educational flowers bloom and

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Why Not Vouchers for Tuition? Food Stamps Are Vouch- ers

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a hundred schools of thought, literally, contend.

In contrast, the United States' public grade-school system resembles a garden full of crabgrass. By forcing competition, vouchers could clear the weeds and let a few blossoms bask in the sunshine.

Such progress already exists among public schools where vouchers are available. In 1997, philanthropist Virginia Gilder offered vouchers of up

to \$2,000 to poor children at Albany's Giffen Elementary School — academically, the area's worst. When 20 percent of students fled for private schools, Superintendent Lonnie Palmer found Giffen a new principal and sacked one-fifth of its teachers. As *Policy Review's* Nina Shokraii Rees reported, Giffen also adopted "Success for All," a curriculum that seems to help low-income students.

If liberal politicians cared as much about students as about their allies and financial supporters in the teachers' unions, they would embrace experiments like Mayor Giuliani's. Though imperfect, vouchers routinely offer the disadvantaged maximum choice in food,

housing, day-care, and college diplomas. Why on Earth couldn't they do the same for grade-school education?

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