



Colorado
Legislative
Council
Staff

ISSUE BRIEF

Number 97-5

A Legislative Council Publication

Updated November 17, 1997

Initiatives and Referenda in the 1990s
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This issue brief explores data pertaining to the initiative and referendum in Colorado for the period 1990-96, with a few comparisons with the decades of the 1970's and the 1980's.

The initiative is the process by which citizens can place proposals on the ballot for Colorado voters to approve or reject. The referendum, as used in this issue brief, means the process by which the General Assembly refers proposals to the people in a statewide election. Both the statutes and the constitution may be amended by the initiative or the referendum in Colorado.

Number of proposals. The table shows the number of initiatives and referenda proposed in the three decades from 1970 to date. In this period there were 112 proposals on the state ballots, 51 referenda and 61 initiatives.

| | Referenda | Initiatives |
|--------|---------------------|---------------------|
| Decade | (Approved/Rejected) | (Approved/Rejected) |
| 1970s | 20 (16/4) | 19 (6/13) |
| 1980s | 15 (13/2) | 15 (6/9) |

| | | |
|--------|------------|------------|
| 1990s | 16 (12/4) | 28 (9/19) |
| Totals | 51 (41/10) | 62 (21/41) |

Two things stand out in this table. First, the initiative is gaining in usage as the present decade proceeds. At the present rate, with one more general election in 1998, it is likely that the number of initiatives for the 1990s will at least equal the number from the 1970s and 1980s combined. The nine general elections in the 1970s and 1980s had 34 initiated proposals on the ballot; the four general elections in the 1990s have had 28 initiatives on the ballot.

Second, the voters are much more likely to approve referenda than initiatives. Referenda were approved by a margin of over 4-1 while initiatives were rejected by a ratio of about 1-2.

Constitutional and Statutory Proposals. Of the 112 proposals on the statewide ballot since 1970, the overwhelming number were proposed constitutional amendments -- 92 -- compared with 20 statutory proposals. A majority of the constitutional proposals were adopted, 54 approved and 38 rejected, while the opposite occurred with statutory proposals, 8 approved and 12 rejected.

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may well equal the number on the ballot
in the 1970s and 1980s combined.***

The Topics of Proposals - 1990-1996. There are many ways in which the subject matter of the proposals in the 1990s may be classified. The table which follows lists them under a few broad categories, starting with those for which there have been the most proposals, elections and the political process and gaming proposals, both categories having had eight proposals. The heading "Taxpayer's Bill of Rights issues" had the next largest number of proposals with six ballot questions. There are also six proposals listed under "Other Topics."

Proposed Initiatives and Referenda by Subject Area -- 1990 through 1996

(A) Elections and the Political Process

Term limits - 1990, 1992, 1996

Presidential primary - 1992

Campaign finance - 1994, 1996

Mailing ballot information booklets - 1994, 1996

Total 8

(B) Gaming Proposals

Permit gaming in various cities - 1990, 1992 (4), 1994, 1996
Local vote after statewide vote - 1992

Total 8

(C) Taxpayer's Bill of Rights Issues

"Amendment 1", adoption - 1990, 1992 Exemptions from Amendment 1:
Sales tax for tourist-related purchases -1993
Tobacco taxes - 1994
Financial obligations - nonstate prisons - 1995
Unemployment compensation - 1996
Tax and Fee Increases - Transportation - 1997

Total 7

(D) Process for Amendments - Initiatives and Referenda

Election reform ("Amendment 12") - 1994
Single subject requirement - 1994
Voter approval (60% requirement) -1996
Petitions - 1996

Total 4

(E) Bill of Rights Amendments

No protected status ("Amendment 2") - 1992
Obscenity - First Amendment - 1994
Parental rights - 1996

Total 3

(F) Animal Protection

Black bear hunting - 1992
Prohibited methods of taking wildlife - 1996

Total 2

(G) Education

Vouchers - 1992
Education reform - sales tax - 1992

Total 2

(H) Open Space and State Lands

Lottery revenues for parks, recreation, wildlife - 1992
State trust lands - 1996

Total 2

(I) Criminal Procedures

Rights of crime victims - 1992
Post conviction bail - 1994

Total 2

(J) Other Topics

Removal of obsolete provisions - 1990, 1992
Labor - Workers choice of care - 1994
Medicaid - State medical assistance - repayment - 1994
Property tax - Exempt property - 1996
County sheriffs - Qualifications - 1996

Total 6

Constitutional Changes, 1990-1996. Four constitutional changes have been adopted in the 1990s relating to the initiative and referendum. The single subject requirement for bills in the General Assembly is now required for initiatives and referenda (1994), referred and initiated Taxpayer's Bill of Rights questions are allowed in odd-year statewide elections (1992), and state and local governments are required to prepare ballot analyses that are mailed to every household with registered voters (1994). An adjustment in the mailing date for local ballot booklets was approved in 1996 to allow for the coordinated mailing of local and state booklets.

Recent Court Decisions. Important requirements of Colorado law have been subject to court challenges in recent years. A 1988 decision worked for the benefit of petitioners when the U.S. Supreme Court held unconstitutional the state's prohibition on the use of paid signature gatherers on petitions. This prohibition

was determined to be in violation of First Amendment guarantee of free speech in restricting political expression. (*Meyer v. Grant*, 108 S.Ct. 1886)

A 1995 decision of the U.S. District Court ruled on five other requirements of Colorado law, holding three provisions valid and two invalid. Invalid provisions were the monthly reports by paid circulators and the required use of identification badges that differentiated between paid and voluntary petition circulators. Held as constitutional were the requirements that petition circulators be registered electors, the six-month period for signature gathering, and the requirement that circulators attest to the validity of the signatures. (*American Constitutional Law Foundation, Inc. v. Meyer*, 870 F.Supp. 995).

The Colorado Supreme Court upheld the legislature's interpretation of the scheduling of elections under the Taxpayer's Bill of Rights, namely, that only tabor issues - government financing, spending, and taxation - would be permitted on the ballot in an odd-numbered year. (*Zaner v. City of Brighton* (917 P.2d 280 (Colo. 1996))).