

TRENDS AND THREATS TO THE BALLOT MEASURE PROCESS 2019-2020

Attempts to restrict direct democracy and muffle the voice of the people will continue during the 2020 legislative session. We expect the 2020 session to build upon what we saw in 2019, where more legislation was introduced to change the ballot measure process than in the previous two years combined.

While proposed changes are often framed as helping to improve the process or protect people in a state, the potential impact is to erect additional barriers to and increase the cost of participation in direct democracy and we urge people to view proposed reforms with an eye toward whether the changes limit or expand access to the ballot measure process.

What they'll say



“Representation should come from all parts of the state”

This argument will be used to push process changes related to geographic distribution requirements. We approach these requirements with caution. It is important to read the fine print, particularly when the geographic distribution requirement goes beyond the congressional district level. These requirements can make campaigns exponentially more expensive and sometimes have other unintended consequences. The increased logistics and tactics are also challenging because of lack of capacity for volunteer signature gathering in all areas and the increased costs for paid signature gathering.

What they'll say



“Too many ballot measures are being passed”

This argument is used to justify changes to the process that make it harder for a measure to qualify for the ballot or to get approved by voters. Examples include increasing the number of signatures required to qualify for the ballot and/or increasing the percentage by which a measure must pass in order to win. These requirements create additional hurdles to participating in the ballot measure process. This claim is often raised in response to the passage of measures that the legislators do not like.

What they'll say



“The ballot measure process must be protected from fraud”

A favorite target of this argument is paid signature gatherers and vendors. This argument is often used to pass onerous requirements and regulations on who can gather signatures and what is required of them. Some states create different requirements for verifying signatures that are collected by volunteers vs. paid signature gatherers. These double standards create compliance challenges and unnecessary barriers. The vetting process and background checks for potential paid signature gatherers can be excessive.

What they'll say



“The process must be streamlined”

Formatting changes can seem small. Changing the requirements for font size, margins, or word count appear minor, but can have major impact depending on how they are enforced. Strict compliance requirements can lead to more lawsuits instead of a more streamlined process.

If there is uncertainty in how compliance is defined and what consequences will be for not following the format requirements, the ballot measure process can become unfair. Onerous requirements and inconsistent enforcement create additional barriers to already marginalized communities.

What they'll say



“Outside influence is hurting local politics”

This argument often targets donations to ballot measure campaigns from outside groups. The rights of citizens and organizations to fund ballot measures is important. Bans on out-of-state contributions and legislative targeting of specific donor groups should be carefully examined. This type of legislation can especially hinder community organizations who work with national partners, making it even harder for smaller, less-resourced groups to meaningfully participate in ballot measure campaigns.

What they'll do



“Throw everything against the wall and see what sticks”

This plays out when several pieces of legislation are introduced simultaneously and each one proposes to change a specific part of the process. On their own, each bill does not seem particularly significant. However, the cumulative effect of all the changes could gut the ballot measure process. Multiple bills may be introduced at once with the goal of hiding the dramatic change of a single bill, such as eliminating the ballot measure process altogether. This strategy is intended to drain the limited resources of organizations and are often introduced on a tight timeline so the legislation cannot be thoroughly vetted by these groups.

What they'll do



“Alter ballot measure language or refuse to take action to implement”

This plays out after a ballot measure is approved by voters and the legislature either delays implementation or introduces legislation to undermine the intent. The folks who employ these tactics may say that the ballot measure is unclear and needs more guidance to be implemented or state that there are insufficient funds available to move it forward.