



EVALUATION FACTORS FOR LEGISLATION THAT CHANGES THE BALLOT MEASURE PROCESS

During the 2018-2019 legislative session, there were a record number of bills introduced to change the ballot measure process. While a handful of the bills could be classified as helpful reforms, most of these pieces of legislation were attempts to curtail the ability to practice direct democracy. More disturbing was the blatant motivation for these new proposed laws: to stop the progress progressives have made in recent elections such as increases to the minimum wage, election reform, and Medicaid expansion.

BISC tracked over 120 pieces of legislation and provided analysis for partners in states during the 2018-2019 legislative session. We anticipate that in the upcoming presidential election year, attacks on the ballot measure process will intensify. We must continue to pay attention to legislative attacks and be prepared to fight back against attempts to restrict the process by engaging with state legislators, shaping the narrative, and engaging the public.

BALLOT INTEGRITY LEGISLATION EVALUATION FACTORS

Political landscapes change. BISC's stance on policy changes to the process takes into account the impact of passed legislation and may shift over time. However, there is a core set of factors BISC uses to evaluate legislation as it relates to the ballot measure process. While all of the factors may not apply to every piece of proposed legislation, they include the following:

1. Does the legislation present a particular concern to our national or state partners?
2. Does the legislation expand or restrict access to the ballot measure process? For whom?
3. Does the legislation promote or prevent petition signature fraud?
4. Does the legislation have inherent constitutional concerns?
5. Does the legislation increase costs to the extent that it would discourage or prevent the pursuit of ballot measures by our partners?
6. Does the legislation expand or limit transparency/accountability for ballot measure campaigns and donors?
7. Does the legislation improve or weaken proper due process for signature qualification procedures and subsequent legal challenges?
8. Is the legislation straightforward and clearly defined or is it purposefully vague?
9. Is the legislation in line with our progressive values?
10. Is the impact likely to promote or prevent equity and inclusion in the ballot measure process?

These factors, along with state-specific political context, help BISC assess whether the legislation is positive, negative, or neutral to the interests of our partners. We work with partners on the ground who know their communities best to finalize analysis, particularly about the impact and context of proposed legislation.

APPLYING EVALUATION FACTORS TO 2018-2019 POLICY THEMES

The 2018-2019 legislation tracked by BISC revealed several key themes:


- Geographic Distribution Requirements
- Increased Signature Thresholds for Qualification
- Regulation of Paid Signature Gatherers and Vendors
- Changes to the Petition Formats, Procedures, and Due Process
- Restrictions on Ballot Measure Donations




General Position	Inclined to Oppose in Most Cases
Rationale	Imposing additional requirements on the signature qualification process will make proactive campaigns more expensive, particularly when geographic distribution goes below the congressional district level. Campaigns will be forced to significantly adjust logistics and tactics to accommodate.
Key Evaluation Factors	<ul style="list-style-type: none"> • Increased costs could discourage pursuit of ballot measures by partners • Policy could ultimately restrict access to ballot measure process if partners cannot afford or build grassroots capacity to comply • Other concerns raised by state or national partners
Other Considerations	Partners should evaluate on a state-by-state basis. Levels of requirements (congressional district versus county) will make a difference in how onerous the requirements are.



General Position	Inclined to Oppose in Most Cases
Rationale	Increasing the number of signatures required will discourage ballot measure campaigns and increase costs. Campaigns will be forced to significantly adjust logistics and tactics to accommodate.
Key Evaluation Factors	<ul style="list-style-type: none"> • Increased costs could discourage pursuit of ballot measures • Policy could ultimately restrict access to ballot measure process if partners cannot afford or build capacity to comply • Other concerns raised by state or national partners
Other Considerations	Some states are considering changes to differentiate signature thresholds between constitutional and statutory ballot measures. The impetus seems to be to incentivize statutory changes that the legislature can eventually alter or repeal.

General Position	Evaluate on a Case-by-Case Basis
 <p>Rationale</p>	<p>Some legislation would require paid signature gatherers and their firms to register or become licensed by the state. Others would require paid circulators to wear ID badges or other ways to distinguish them from volunteers. Yet others would seek to restrict who can gather signatures. Each of these proposals should be evaluated on a case-by-case basis.</p>
<p>Key Evaluation Factors</p>	<ul style="list-style-type: none"> • Does it help prevent signature fraud? • Does it increase transparency/accountability on ballot measure campaigns and signatures firms? • Legislation has known constitutional concerns • Legislation could restrict access to the ballot measure process
<p>Other Considerations</p>	<p>Partners in states should help assess if new regulations of paid circulator and signature firms are needed reforms or are simply designed to place additional barriers to the process. Additionally, there should be clarity on how the regulations will be implemented and enforced.</p>

Regulation of Paid Signature Gatherers and Vendors

General Position	Evaluate on a Case-by-Case Basis
 <p>Rationale</p>	<p>Every ballot measure state has a unique set of timetables, rules and procedures to properly qualify a ballot measure. Unnecessarily technical requirements can be used to disqualify measures from appearing before voters.</p>
<p>Key Evaluation Factors</p>	<ul style="list-style-type: none"> • Does the legislation expand or limit transparency/accountability for ballot measure campaigns and donors? • Does the legislation improve or weaken proper due process for qualification procedures and subsequent legal challenges? • Is the legislation clearly defined or is it purposefully vague?
<p>Other Considerations</p>	<p>Are the reforms necessary to address demonstrated problems or are they designed to restrict ballot access and/or make it easier to bring due process challenges? How will the reforms be carried out and enforced?</p>

Changes to the Petition Formats, Procedures, and Due Process



Restrictions on
 Ballot Measure
 Donations

General Position	Oppose
Rationale	BISC believes bans on out-of-state contributions and legislation restricting certain types of in-state donors or institutions to generally be unconstitutional.
Key Evaluation Factors	<ul style="list-style-type: none"> • Increased costs could discourage pursuit of ballot measures by partners • Legislation raises constitutional concerns • Other concerns raised by state or national partners
Other Considerations	Many local and grassroots organizations depend on national partners for ballot measure campaign support. Bans on partnerships like this make the process less accessible for smaller and community organizations. More transparency is preferable to prohibitions.