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## Inside this Brief

- **The Initiative**
- **The Referral**
- **The Referendum**
- **History of Initiative, Referral and Referendum in Oregon**
- **Differences in the Initiative and Referendum Process Between States**
- **Ballot Titles and Committee Statements**
- **Citizens' Initiative Review Commission and Citizen Panels**
- **Staff and Agency Contacts**
- **Additional Resources**

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Background Brief on ...

# Initiative, Referral and Referendum Process

Since 1902, the Oregon Constitution has provided voters with three methods of directly affecting changes to the Oregon Revised Statutes and the Oregon Constitution: the initiative, the referral and the referendum. While they differ somewhat in the process of getting to the ballot, the initiative, referral and referendum place the ultimate authority to change the law in the hands of the people.

## The Initiative

The initiative process gives direct legislative power to the voters to enact new laws, change existing laws, or amend the Oregon Constitution. Any person may be a chief petitioner of an initiative petition. Chief petitioners are the individuals who sponsor initiatives, and an initiative may have up to three chief petitioners.

For an initiative to qualify for the next regularly scheduled General Election (the first Tuesday after the first Monday of November in even-numbered years), chief petitioners must receive written approval from the Secretary of State to circulate signature sheets in order to collect signatures from registered voters.

Chief petitioners must then obtain the necessary number of valid signatures and submit them to the Secretary of State no later than four months prior to the date of the next regularly scheduled General Election.

Article IV, Section 1 of the Oregon Constitution establishes the number of signatures that must be gathered in order to qualify for the ballot is the number of votes cast for Governor during the most recent gubernatorial election – six percent for statutory amendments and eight percent for constitutional amendments. The total vote count for the November 2010 General Election was 1,453,548. To place an initiative on the November 2012 General Election ballot, the chief petitioners will be required to gather 87,213 valid signatures for a measure that amends the Oregon Revised Statutes, or 116,284 valid signatures for a measure that amends the Oregon Constitution. The required number of signatures for the 2016 and 2018 cycles will not be determined until after the 2014 General Election.

### **The Referral**

The referral process gives voters the opportunity to decide on Constitutional or statutory changes proposed by the Oregon Legislature. If both the Oregon House of Representatives and the Senate vote to send a measure to the state ballot, the measure is not subject to the Governor's veto power.

The chief petitioners of a legislative referral are members of the Legislative Assembly, one Senator and one Representative. The Legislative Assembly may also appoint members to a Joint Committee to draft an argument in support of the measure. The Joint Committee for an Argument in Support is composed of one Senator and two Representatives. The Argument in Support is not subject to legal challenge.

### **The Referendum**

The referendum process allows voters the opportunity to reject legislation (**Acts**) adopted by the Oregon Legislature. The only Acts exempt from a referendum are those with an emergency clause – Acts that the Legislative

Assembly declares are necessary for the immediate preservation of the public peace, health, or safety and the support of state government and its existing institutions. Acts with emergency clauses typically have effective dates earlier than other legislation.

Any person may become a chief petitioner of a referendum petition. Chief petitioners are the individuals who sponsor referenda and a referendum may have up to three chief petitioners.

For a referendum to qualify for the next regularly scheduled General Election, chief petitioners must receive written approval from the Secretary of State to circulate the text of the Act among registered voters. Chief petitioners must then obtain the necessary number of valid signatures and submit them to the Secretary of State no later than 90 days after the Legislature adjourns.

The Constitution also sets the number of signatures required to qualify a referendum to the ballot at four percent of the number of votes cast during the most recent gubernatorial election. To place a referendum on the November 2012 General Election ballot, chief petitioners are required to gather 58,141 valid signatures. The required number of signatures for the 2016 and 2018 cycles will not be determined until after the 2014 General Election.

### **History of Initiative, Referral and Referendum in Oregon**

In 1902, 91 percent of voters approved an amendment to the Oregon Constitution to allow for the initiative and referendum process. As of July 2012, the people have passed 120 of 352 initiative measures on the ballot and 23 of 64 referenda on the ballot. During the same period, the legislature has referred 424 measures to the people, of which 249 have passed.

### **Differences in the Initiative and Referendum Process between States**

Oregon is one of 27 states that have an initiative process. Other states with an initiative process are: Alaska, Arizona, Arkansas, California,

Colorado, Florida, Idaho, Illinois, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Washington, Wyoming, and U.S. Virgin Islands. Some notable differences between states' laws are:

- Alaska, Idaho, Maine, Utah, Washington, and Wyoming only allow for initiatives that amend statute.
- Florida, Illinois, and Mississippi only allow for initiatives that amend their constitutions.
- Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Oregon, and South Dakota have direct initiative processes where proposals that qualify go directly to the ballot.
- Alaska, Maine, Massachusetts, Michigan, Mississippi, Nevada, Ohio, Utah, Washington, Wyoming, and U.S. Virgin Islands have indirect or partially indirect initiative processes where some or all proposals must be submitted to the legislature first.
- Some states have a waiting period, ranging from three to five years, for re-filing a defeated initiative.

The percentage of voters' signatures required to qualify an initiative to the ballot varies by state, some states have a geographic disbursement restriction on the number of signatures required from counties or congressional districts.

### **Ballot Titles and Committee Statements**

A petitioner for referendum or initiative measures must file prospective petitions with the Secretary of State, who then sends the prospective petitions to the Attorney General. The Attorney General creates a draft ballot title for each measure, which is then open to written public comment. If no comments are received on a draft title, the Attorney General may certify the title. If public comments are received, however, the Attorney General may choose whether to incorporate the comments or not. If a voter has submitted comments on a draft title but is dissatisfied with the Attorney General's title

after the public comment period, the voter may petition the Supreme Court for review. Legislative referrals may also have ballot titles drafted and certified by the Attorney General, or the Legislative Assembly may submit its own draft ballot title.

Once a measure has been submitted for signature verification, an explanatory statement committee is formed to draft an impartial statement that is 500 words or less and easy to understand to explain the measure. The Committee is composed of two members appointed by the chief petitioners, two members appointed by the Secretary of State who are opponents of the measure, and one member selected by the other four members. For a Legislative Referral, the proponents are one Senator and one Representative. The explanatory statement is included in the voters' pamphlet.

Each measure is also analyzed by the Financial Estimate Committee. The Committee is composed of the Secretary of State, the Director of the Department of Administrative Services, the Director of Revenue, the state Treasurer, and a local government representative. It is charged with determining the financial impact of each measure and drafting a statement describing the impact. If the Committee determines the financial impact is greater than \$100,000, it may also draft an impartial 500 word statement explaining the financial impact of the measure. The financial estimate statement is published with the ballot measure.

### **Citizens' Initiative Review Commission and Citizen Panels**

In 2011, House Bill 2634 established the Citizens' Initiative Review Commission and citizen panels. The Commission is composed of 11 members: three members who have served in a prior capacity as an impartial fifth member of an explanatory statement committee, four members who have served in a prior capacity as moderators of a citizen panel, and four electors who have served on a prior citizen panel. Panels are composed of 18 to 24 members who reflect the demographics of voters in the state in regards to regional location, political party

affiliation, age, and voting record. In forming the citizen panels, the Commission may also consider race, gender, and other criteria.

The Commission chooses at least one initiative per general election to review and convenes a separate panel per chosen initiative. Panels meet for five consecutive days and hold public hearings on their particular initiative. Panels must hear from proponents and opponents in equal amounts of time. Each panel has two moderators with training in mediation. Panels may draft several statements regarding each measure, including: a statement in support; a statement in opposition; an impartial statement of key findings; and a statement of additional policy considerations. These statements are included in the statewide voters' pamphlet.

#### **Staff and Agency Contacts**

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#### **Additional Resources**

[Oregon Secretary of State](#)

[2012 State Initiative and Referendum Manual](#)

[ORESTAR Campaign Finance Database](#)

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