District of Columbia

Though the District of Columbia is not a state, the District charter grants its citizens the power to create district-wide laws (statutory initiative) and subjects acts of the council to a district-wide referendum. In order to place an initiative or referendum on the ballot, citizens must collect signatures equal to 5 percent of registered voters district-wide at the time the petition is turned in, which is currently 20,895.* Additionally, signatures must also equal 5 percent of registered voters in at least five of the eight wards in the District. It is important to note that because of the special status attached to the nation's capital district, the United States Congress has final authority to accept or reject initiatives in the District.

District of Columbia's Initiative & Referendum Rights

Statutory Initiative—3 points

The District of Columbia's Charter authorizes citizens to propose simple statutes through the petition process. The District of Columbia receives three points. (District of Columbia Code, § 1-1001.16(a)(1))

Referendum—2 points

The District of Columbia's charter authorizes citizens to call a district-wide referendum — or People's Veto — by petition, permitting citizens to then either approve or reject any act passed by the council. The District of Columbia receives two points. (District of Columbia Code, § 1-1001.16(a)(1))

Local Initiative—1 point

Because of the unique status of the District of Columbia and the fact that the District has only one municipality — Washington — the local initiative process is essentially the same as the district-wide initiative process. For comparison purposes, we awarded the District of Columbia one point under local initiative. (District of Columbia Code § 1-1001.16(a)(1))

Restrictions on the District's Initiative & Referendum Rights

Residency Requirement—1 point deducted

The District of Columbia bans non-residents from gathering petition signatures for initiatives and referendums. This prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Similar residency requirements in various states have been struck down as unconstitutional violations of citizens' First Amendment rights. (District of Columbia Code, § 1-1001.16(h)(5))

Distribution Requirement—½ point deducted

In addition to gathering petition signatures from 5 percent of registered voters, the District of Columbia requires that signatures must come from five of the eight wards in the city. This distribution requirement adds to the difficulty of qualifying an initiative and significantly increases the cost of petitioning. (District of Columbia Code, § 1-1001.16(i))

Insufficient Circulation Period for District Initiatives—½ point deducted

District of Columbia petition sponsors have only 180 days to collect the required number of signatures to

* The exact number of petition signatures needed is impossible to calculate prior to turning in petitions, as it depends on the number of registered voters on the district's rolls in the future—that is, at the time the signatures are submitted. Because lists of registered voters constantly change, as well as being notoriously out-of-date, Citizens in Charge Foundation urges setting petition requirements on a percentage of the last vote for mayor (or other districtwide office) rather than a percentage of registered voters.

qualify a statutory initiative for the ballot. Petition sponsors need ample time to collect the tens of thousands of signatures needed to qualify, and the District of Columbia's short six month period does not allow enough time. (District of Columbia Code, § 1-1001.16(j)(1))

The District of Columbia can improve its grade by making its initiative process more open and accessible to the average citizen.

Expand Citizen Access

Allow people from outside of District of Columbia to help District of Columbia residents petition their government: Repealing the requirement that one must be a resident of District to circulate petitions would give District of Columbia an additional point. (District of Columbia Code, § 1-1001.16(h)(5))

Increase the time period to circulate petitions: District of Columbia could gain a half point by increasing the circulation time period for district statutory initiatives to at least nine months. (District of Columbia Code, § 1-1001.16(j)(1))

Count each signature equally: Repealing the requirement that signatures be gathered from five of the eight wards in the district and allowing voters from any part of the district to sign the petition on equal footing, would give the District of Columbia an additional half point. (District of Columbia Code, § 1-1001.16(i))

Additional Notes

The power of the initiative process in the District of Columbia is severely limited by the fact that the United State Congress has the power to unilaterally keep measures off the district ballot and to invalidate initiatives passed by the voters. Also, the Washington City Council has the power to repeal initiatives as soon as they are passed by voters. Without protection from encroachment from these two bodies, residents rights are very tenuous.

Citizens in Charge FOUNDATION

January 2010

Of the People, By the People, For the People

A 2010 Report Card on Statewide Voter Initiative Rights

Executive Summary

For over a century, the initiative and referendum process has given voters a greater voice in their government. The right to initiative is recognized by 24 states, as well as thousands of local jurisdictions all across the country. These processes operate under widely varying laws, rules, regulations, and restrictions, so that the petition rights of citizens in one state may be quite different — and far less secure — than the rights of citizens in another state.

Citizens in Charge Foundation believes that citizens everywhere must have a say in their state and local governments through a system of initiative and referendum that is open and accessible to the average person. Furthermore, the right to petition our government should be interpreted broadly with an eye toward allowing access to voters and honoring their will.

Attempts to restrict initiative and referendum rights by putting up barriers to how petition signatures can be collected, who can work for petition campaigns, and how campaign workers can be paid should be rejected. Indeed, courts have regularly struck down such barriers as violations of First Amendment rights.

Citizens need ample time to collect signatures on a petition, and the required number of signatures should be low enough that grassroots efforts have a chance at successfully making the ballot. Attempts to decrease the amount of time available or raise the number of signatures required should also be rejected. Fundamentally, any attempt to restrict the ability of the people to use the initiative and referendum process undermines our basic democratic principle that government be of, by, and for the people.

Citizens in Charge Foundation has created this report card to give a clearer picture of the extent to which residents of various states have the ability to affect their government through the initiative and referendum process. The startlingly low grades received by a majority of the states should serve as a rallying point for citizens around the country. Even the relatively higher grades of what might be called "the initiative states" show, in most cases, major room for improvement.

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Citizens in Charge Foundation is the only national transpartisan voter rights group dedicated to protecting and expanding the ballot initiative and referendum process.

For more information visit: www.CitizensInCharge.org.

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A 2010 Report Card on Statewide Voter Initiative Rights

January 2010

Introduction

As governments have grown at local, metropolitan, state, and federal levels, the power of entrenched factions has also grown, *vis-à-vis* the citizenry. Traditional representative government has proven unreliable in restraining itself constitutionally, often to the point of uniting all branches of America's distributed powers against the very people it was meant to serve. Institutions of citizen-led democracy have evolved to help restore this balance of power, in effect fulfilling a basic promise of republican governance: *The right to petition government*. Initiative and referendum thus serve as an expansion and perfection of one of the most basic principles of a limited republic.

Though the right to petition government has several centuries of development, and institutionalized rights to initiative and referendum just over a century of practice in this country, these mechanisms are by no means universal throughout the United States.

This first annual report by Citizens in Charge Foundation finds that most of the 24 states with some form of statewide initiative rights received a grade no higher than a C. These states recognize varying levels of petitioning rights, and most place restrictions against those engaged in the process that lower their grade. Some states — such as Missouri and Ohio — have robust processes with few restrictions, earning them A grades. At the other end of the spectrum, Wyoming recognizes statewide statutory initiative and referendum rights, but lacks a process to amend the state constitution through initiative. Wyoming's limited process, along with the many restrictions placed on petition gathering by the state legislature, earns Wyoming an F.

States that don't recognize any statewide form of petition rights all receive failing grades of D or F. While many of these states do recognize local petitioning rights, the failure to provide citizens the ability to propose either statewide statutes or constitutional amendments means citizens are denied the means to effectively control the state government to which local governments are legally subservient.

Citizens in Charge Foundation hopes that these grades will be used as a guide to help citizens and lawmakers bring more openness and accessibility to every state with an initiative and referendum process, and encourage those states without statewide initiative and referendum to provide citizens with these powers.

Method

In order to draw appropriate comparisons across all 50 states, Citizens in Charge Foundation looked at the most prominent and consistent factors affecting the people's ability to petition government. Examining state constitutions and legal codes, we looked at what outlets for citizen-led government were provided — statewide citizen-initiated constitutional amendment, statewide statutory initiative, statewide referendum, the existence of a local initiative and referendum process, and the breadth of local processes — and awarded points accordingly.

We then noted the restrictions that states have placed in the way of citizens petitioning their

government — short circulation periods, high signature requirements, bans on campaign workers from other states circulating petitions, bans or limitations on paying campaign workers who circulate petitions by the number of signatures they collect, and requirements that petitions be circulated according to a geographical/political distribution — and deducted points for each restriction.

Some states suffer from very unique barriers to the petition process, which for comparison purposes were not calculated in their grade, but are noted at the end of their state report.

Points were added as follows:

Constitutional Amendment—3 points

States that allow citizens to propose amendments to the state constitution through a petition process were awarded three points. A constitution is the fundamental contract by which citizens establish their government and citizens should have the power to propose changes to be voted on by the people. Providing citizens with a process for initiating constitutional amendments upholds the fundamental principle of government by the consent of the governed.

Statutory Initiative—3 points

States that allow citizens to propose statutory measures through a petition process were awarded three points. This process allows citizens to propose simple statutes to be voted on by the people. States vary on whether such a voter-enacted statute can be amended or repealed by the state legislature, but in most cases, legislatures are able to make changes to initiative statutes.

Referendum—2 points

States that allow citizens to call a statewide referendum — or People's Veto — through the petition process were given two points. A referendum allows citizens to delay the implementation of a law passed by the legislature* until an election can be held whereby voters can either approve or reject the act passed by the legislature. As a reaction to an act by the state legislature, the referendum is more limited than the initiative.

Local Initiative—3 possible points

States where citizens in certain municipalities or other local jurisdictions enjoy the powers of initiative and/or referendum were given one point. Local initiatives give citizens the power to affect laws and initiate government reforms close to home. Two additional points were given to states where over half the population has access to a local initiative or referendum process.

Points were subtracted for the following restrictions:

Residency Requirement—1 point deducted

States that ban non-residents from gathering petition signatures for initiatives and referendums lost a point. This restriction prevents proponents from hiring the best qualified people, making it more difficult to meet the signature requirements to qualify a measure for the ballot. Residency requirements have generally been struck down by federal courts as unconstitutional violations of First Amendment rights, but remain on the books in 14 states (and have been enacted in recent years in Montana, Nebraska and South Dakota).

Pay-Per-Signature Ban—1 point deducted

States that ban or limit paying campaign workers who collect signatures on a petition based on the number of signatures they collect, or otherwise restrict how campaign workers can be paid, lost a point. Payment-per-signature allows citizens greater certainty in judging the cost of a petition effort. Moreover, in states that have passed such bans, the cost of successfully completing a petition drive has risen considerably, sometimes more than doubling. Federal courts have struck down these bans in five different states.

*Wyoming is the only state where a referendum petition does not delay implementation of a legislative statute until an election to decide the matter is held.

Distribution Requirement—½ point deducted

States that require petition signatures to be collected within, or distributed over, a certain number of subdivisions in the state lost a half point. Distribution requirements increase the complexity of qualifying a measure, thus driving up the cost and difficulty. When distribution requirements are based on geographic boundaries, rather than population-based, forcing signatures to be collected in sparsely populated areas, the costs are further increased. Federal courts have universally struck down non-population-based distribution requirements as violations of the Constitution's equal protection clause—the "one man, one vote" principle.

Insufficient Circulation Period (Constitutional Amendments)—½ - 1 point deducted

Petition sponsors need ample time to collect the tens of thousands, hundreds of thousands, or in some cases more than a million signatures needed to qualify a measure for the ballot. Short circulation periods make it nearly impossible for grassroots volunteer efforts to qualify a ballot measure. We deducted a half point from states with circulation periods for constitutional amendments of less than nine months but more than five months, and we deducted a full point from states with circulation periods of less than five months.

Insufficient Circulation Period (Statutory Initiatives)—½ - 1 point deducted

Petition sponsors need ample time to collect the signatures needed to qualify a statutory initiative for the ballot. Short circulation periods make it nearly impossible for grassroots volunteer efforts to qualify measures. We deducted a half point from states with circulation periods for statutory initiatives of less than nine months but more than five months, and we deducted a full point from states with circulation periods of less than five months.

High Signature Requirement (Constitutional Amendments)—½ - 1 point deducted

High signature requirements make it very difficult to qualify initiatives for the ballot, and nearly impossible for grassroots volunteer campaigns to qualify. We deducted a half point from states that required signatures of more than 8 percent of the number of voters (in the last election for statewide office) to qualify a constitutional amendment for the ballot. We deducted one point from states with signature requirements above 10 percent.

High Signature Requirement (Statutory Initiatives)—½ - 1 point deducted

High signature requirements make it very difficult to qualify initiatives for the ballot, and make it nearly impossible for grassroots volunteer campaigns to qualify. We deducted a half point from states that required signatures of more than 5 percent of the number of voters (in the last election for statewide office) to qualify a statutory initiative for the ballot. We deducted a full point from states with signature requirements above 8 percent.

Scope

In assigning and subtracting points, only the laws in place as of December 2009 were considered. The factors selected for grading were both uniform across the states and had a significant effect on the ability of average citizens to use the petition process. Oftentimes, factors other than those listed in this report affect the process, but vary so widely among states that including them would call for subjective judgments. In cases where these other factors have a major impact on the ability of citizens to petition their state government, we have made note of them under the "Additional Notes" section at the end of that state's report.

Of the People, By the People, For the People: A 2010 Report Card on Statewide Voter Initiative Rights is available in its entirety at: www.CitizensInCharge.org/StateGrades