

Arizona's Direct Democracy

ARIZONA BALLOT PROCEDURES

Constitutional initiative

- Allows citizens to write and enact constitutional measures
- Needs petition signed by 15%* to get on ballot

Statutory initiative

- Allows citizens to write and enact ordinary laws
- Needs petition signed by 10%* to get on ballot

Constitutional referendum

- Allows citizens to vote on constitutional measures proposed by the legislature
- Needs majority vote by Legislature to get on ballot

Statutory referendum by citizen petition (Popular referendum)

- Allows citizens to block an ordinary law** enacted by the Legislature
- Needs petition signed by 5%* within a 90-day time limit to get on ballot

Statutory referendum by legislative referral

- Allows citizens to approve or reject an ordinary law proposed by the Legislature
- Needs simple majority vote by Legislature to get on ballot

Recall

- Allows citizens to remove an official from office
- Needs 25%*** to call recall election

* Percent = number that voted for governor in last election.

** Cannot be used to block: (1) laws with emergency clauses; (2) funding bills to support of government; and (3) new tax laws.

***Percent = number that voted for that office in last election.

What is direct democracy?—Direct democracy refers to a system where the citizens literally govern themselves rather than relying upon elected or appointed officials. Although some of America's earliest towns operated on this basis, America's Founders rejected direct democracy when they wrote the U.S. Constitution in 1787. They viewed it as both impractical and unwise. However, in the late 1890s the Progressive Movement was highly critical of state and local governments. Progressives believed that these governments were being controlled by corrupt party bosses, political machines, and powerful corporations. According to the Progressives the only way to restore honest government was to give the citizens more power. Accordingly, they pushed for the adoption of the initiative (to allow citizens to bypass officials and enact their own statutes and constitutional measures), the referendum (to allow citizens to reject statutes and constitutional measures adopted by officials), and the recall (to allow citizens to remove officials from office before the end of their terms). In 1898, South Dakota became the first state to adopt the initiative and referendum; eight states quickly followed suit. Ten years later Oregon became the first to adopt the recall. Currently about two dozen states, mostly located in the west, have adopted some or all of these ballot procedures.

Arizona adopts direct democracy after a struggle—Arizona became a state during the peak of the Progressive Movement in 1912. Most of the drafters of Arizona's constitution were ardent Progressives, so it is no surprise that the state's constitution included the initiative, referendum, and recall. However, President Taft—a staunch opponent of direct democracy—vetoed Arizona statehood because the state constitution permitted the recall of judges. Arizona was forced to eliminate the recall of judges in order to become a state. However, as soon as Arizona attained statehood it promptly restored judicial recall!

Direct democracy in practice: (1) the initiative—From the beginning Arizonans used their initiative procedures in significant, controversial, and sometimes fickle ways. For example, at the state's very first election in 1912 the (all-male) voters used the initiative process to extend suffrage to women. Voters eliminated and then restored the death penalty (1916, 1918); approved and subsequently repealed Prohibition (1914, 1932). Major governmental changes have been made through the initiative process: the adoption of term limits (1992), merit selection for judges (1974), and the creation of a citizen redistricting commission (2000). In 1958, students used the initiative process to change the name of Arizona State College to Arizona State University after the legislature (which was partial to the U of A!) refused. The state lottery was created through the initiative process (1980), and multiple animal rights measures have also been approved through this means (1994, 1998, 2006). Arizonans used the initiative process to raise taxes on cigarettes (1994, 2006), ban smoking in most public locations (2006), approve a medical marijuana and decriminalization measure (1996), increase the penalties for methamphetamine offenses (2006), raise the minimum wage (2006), restrict bilingual education (2000), and deny benefits to undocumented immigrants (2004, 2006).

(2) The referendum by citizen petition—Citizen-triggered referenda to block laws approved by the Legislature are far rarer than initiatives. In fact, they have only been successfully used 17 times since statehood. Most controversially, this process was used to delay the recognition of a Martin Luther King, Jr. holiday (1988), and to prevent the Legislature from gutting a citizen marijuana initiative (1998). But the limited use of this device understates its importance: The mere *threat* of a citizen referendum has sometimes caused the Legislature to repeal a law on its own or to abandon a measure that it might have enacted but for the referendum threat.

(3) The recall—Although recall is frequently used at the local level, it is rarely employed against state officeholders. (This is mostly because it is too difficult to satisfy the 25% signature requirement since more than a million people typically vote for governor.) However, the voters managed to collect enough petition signatures to trigger a recall election of Governor Mecham in 1988. Before the scheduled recall election took place the state legislature removed the governor from office using the impeachment process. The recall election was then cancelled by order of the Arizona Supreme Court. Finally, despite President Taft’s concerns, only one judge has ever been recalled.

Recent modifications—In the late 1990s, Arizona voters grew frustrated with the Legislature’s habit of altering voter initiatives soon after they were enacted. When the Legislature attempted to gut a recently-passed marijuana initiative the citizens rebelled. In 1998 they used the initiative process to enact the Voter’s Protection Act. This changed the state constitution in three significant ways: (1) It prohibits the governor from vetoing any citizen-approved measure; (2) it prohibits the Legislature from repealing such measures; and (3) it permits the Legislature to amend a citizen-approved measure only if the amendment furthers the purpose of the citizen measure and passes by three-quarters majority. Essentially, this makes citizen-approved measures virtually unalterable except by a subsequent vote of the people. On the flip side, in 2004 the voters approved a restriction on the initiative process that was proposed by the Legislature. The Legislature was frustrated about having to come up with the funds to pay for costly new programs proposed by the citizens. Now, citizen initiatives must establish their own special funding sources.

Pros and Cons of Direct Democracy—Since President Taft worried that recall would intimidate judges, direct democracy has attracted critics. Some contend that the typical citizen is not adequately informed to make sound decisions on state complex laws and policies. Because citizen initiatives do not undergo any governmental review, they are often poorly drafted and generate costly legal challenges due to vagueness, conflicts with other laws, or unconstitutionality. In comparison to the regular lawmaking process, the initiative process does not allow for compromise and some measures are too extreme. (For example, an anti-abortion measure (1992) and a ban on same-sex marriages (2006) arguably failed because they were too sweeping.) Citizen measures sometimes target unpopular minorities such as homosexuals and immigrants and thereby exacerbate social tensions. Because the cost of collecting sufficient signatures and advertising an initiative can be prohibitive, the initiative process is often successfully used only by big businesses or the wealthy. In fact, on several occasions outsiders—individuals and businesses not resident in Arizona—have exploited the process to change the state’s laws. Finally, direct democracy takes power away from elected officials, often making it more difficult for them to govern. This is especially true with respect to citizen measures that limit the government’s ability to raise needed revenues.

On the other hand, defenders of direct democracy argue that it often provides the only way to reform government since legislators are not likely to adopt measures that reduce their own powers or perks. Arizona’s campaign finance reforms, redistricting reforms, and term limits would not have passed except through the initiative process. Direct democracy also gives citizens a way to counteract the effects of powerful lobbyists and special interests that often hold sway over the legislature. They provide an avenue for powerless groups to “take their case” to the people, such as the Salt-River Pima-Maricopa Indians who used the process to win the right to operate casinos when officials said no. Finally, some argue that ballot measures promote a more engaged citizenry and healthier democracy. They make state and local elections more interesting, focus attention on issues as opposed to candidate personalities, allow social solutions to come from a broader pool of people, and provide a safety valve for angry and alienated citizens.

RECALL PRIMER

Who can be recalled:
Any state or local official

When can a recall be called:
After 6 months for all officials other than state legislators (5 days after start of first session for legislators.)

Grounds for recall:
Anything

Procedure:

1. Citizen petition signed by 25% of the total vote for that office in the last election.
2. If official refuses to resign, a recall election is scheduled. All qualified candidates can run against the incumbent. Whoever gets the most votes wins the office. If the incumbent wins he/she remains in office and no other recall can take place during that term unless the proponents pay the cost of the prior recall election.

CITIZEN PETITIONS ON THE BALLOT 1912 —2006

Constitutional initiative	
On the ballot:	61
Passed:	26 (43%)
Statutory initiative	
On ballot:	102
Passed:	42%
Referendum by citizen petition	
On ballot:	34
Passed:	50%

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