

STUDY GUIDE:

INITIATIVE AND REFERENDUM IN CALIFORNIA: A LEGACY LOST?

Your opportunity to learn about direct legislation in California from progressive hopes to present reality and to consider where we go from here

League of Women Voters of California
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HISTORY: SUCCESS IN SACRAMENTO

Largely responsible for the adoption of initiative and referendum in California state-wide was an enormously influential, and today very little-known, organization called the League of Lincoln-Roosevelt Clubs, better known as the Lincoln-Roosevelt League. Of humble, decidedly grassroots origins, the Lincoln-Roosevelt League would succeed in an effort in which generations of reformist groups preceding it had failed – ousting the Southern Pacific Railroad, more commonly referred to as the “machine,” from California politics.

The founders of the Lincoln-Roosevelt League, journalists Chester Rowell of Fresno and Edward Dickson of Los Angeles, met in 1907 while covering the California Senate in Sacramento, where their desks were adjacent to each other. United in their disgust with politicians who were clearly no more than railroad puppets, the two began to envision a new reform effort. The two would utilize their influence as reporters for the *Fresno Republican* and the *Los Angeles Express*, respectively, to finally succeed in restoring the governing power in the state to the people. The first meeting of this new organization was an intimate affair held in Los Angeles in May of 1907. Rowell and Dickson had each recruited among their circle of friends and colleagues several progressive men of influence, all of whom expressed commitment to the cause. The group adopted the provisional name of the Lincoln Republicans, in homage to the President’s renowned Gettysburg Address sentiment: “That government of the people, by the people, and for the people shall not perish from the earth.” Among those present at this first meeting was Dr. John Randolph Haynes, upon whose insistence the group adopted a core platform of principles, which included the direct democracy tools of initiative, referendum, and recall. Thus it was that from the very outset, the movement that would purge railroad dominance from California’s democracy enshrined the initiative and referendum in its agenda.

The organization was officially launched at a follow-up meeting in August of that year in Oakland, where some fifty delegates gathered. They agreed to also honor President Roosevelt, admired for his commitment to trust-busting and the common man, by adopting his name in their title as well, and the name became the League of the Lincoln-Roosevelt Clubs. Fixated on the singular goal of categorically ousting the Southern Pacific Railroad from political influence in California, the Lincoln-Roosevelt League set the wheels in motion to go forth and start clubs at the local level in communities all across the state. Yet while the League went on to have many local successes, the members knew that to create real change in their state, they would have to take their cause to the Capitol.

In this, they were aided by the newly enacted direct primary. In 1906, the influence of the Southern Pacific in the party primaries had been so brazen that both the Democratic and Republican parties had demanded that the legislature enact direct primary laws, allowing for the people to directly select candidates.¹ The direct primary system, adopted in 1907, put into place a structure that would allow the Lincoln-Roosevelt League to back an independent candidate, Hiram Johnson. Johnson, who had gained

¹ The significance of the direct primary cannot be overstated. In the previous system, no amount of grassroots support could

considerable notoriety during the well-publicized San Francisco graft trials, was a lawyer and a remarkable speaker, whose magnetic presence and strong convictions made him the perfect candidate for the people to rally behind in challenge of the status quo. His campaign slogan, “Kick the Southern Pacific Out of Politics,” went straight to the point, and it resonated with voters. With widespread bipartisan appeal, Johnson was elected over Democrat Theodore Arlington Bell in the 1910 election and was set to take on Sacramento.

The road to the implementation of initiative and referendum in California was now fully paved. After Johnson was elected, the Republican State Central Committee called a planning session to set the legislative agenda. At this meeting, whose attendees included staunch direct democracy advocates U’Ren and Haynes, it was established that initiative and referendum would remain a central platform of the Republican Party. In his inaugural address, Hiram Johnson removed all doubt, stating, “I most strongly urge, that the first step in our design to preserve and perpetuate popular government shall be the adoption of the Initiative, the Referendum and the Recall.”ⁱ Shortly thereafter, in the 1911 legislative session, Senator Lee C. Gates of Los Angeles and Assemblyman William C. Clark of Oakland introduced amendments calling for all three direct democracy tools. The initiative, referendum, and recall were adopted by a vote of 35 to 1 in the Senate and 71 to 0 in the Assembly (the only serious debate was over the recall provision; initiative and referendum were roundly supported). Proposition 7, an amendment to the California Constitution allowing for initiative and referendum, went to the people for a vote in a special election on October 10, 1911.² Although there was some push-back – one critic espoused that direct legislation “would mean the destruction of representative government, the establishment of an absolute tyranny of the majority, and the triumph of radicalism and incompetence” – the Initiative and Referendum Amendment was enshrined into law when it passed with 76% of the vote.ⁱⁱ

“I most strongly urge, that the first step in our design to preserve and perpetuate popular government shall be the adoption of the Initiative, the Referendum and the Recall.”

–Governor Hiram Johnson, 1911

HISTORY: THE INITIATIVE IN CALIFORNIA, FROM BIRTH TO CENTENARIAN

Although there is little distinguishing the letter of the initiative and referendum laws today from their enactment over a century ago, their role in the actual governance of the state has grown exponentially. The technical changes in the law have been relatively insignificant, but a selection merit consideration. In 1946, voters approved a constitutional amendment which gave the legislature authority to seek voter approval of amendments to initiative statutes. (The legislature can only amend an initiative without voter approval if the initiative itself explicitly allows for such alteration.) In 1966, Proposition 1A, the Constitutional Revision Act, was enthusiastically approved by the electorate (73 percent). This Act reduced the number of signatures necessary to qualify an initiative statute from eight percent to five percent, and eliminated the rarely-used indirect initiative, one that had gathered the required number

² This same special election granted women the right to vote.

of signatures to the legislature for enactment, defeat, or amendment.³ Initiatives were first allowed onto the ballot in primary elections, in addition to general elections, in 1968.

The 1974 Political Reform Act, begun as Proposition 9 and passing with nearly 70 percent of voter approval, significantly revised ballot pamphlet requirements (among other provisions). The impartial analyses written by the legislative analyst, it read, “shall be written in clear and concise terms which will easily be understood by the average voter.” Also to be included were pros and cons from supporters and opponents of measures. Additionally, the Act required that before the voter pamphlet went to the printer, it be made available for public examination so that anything found to be false or misleading could therefore be altered. It further required timely itemized disclosure of all contributions and expenditures to initiative campaigns, and it prohibited anonymous contributions. And last, the Act created a Fair Political Practices Commission and imposed civil and criminal penalties for violations of the new requirements.

These new rules were followed by a 1975 law which required the Attorney General to insert the Fiscal Impact Statement; it also offered free legislative counsel to those interested in drafting an initiative proposal. A 1976 law allowed for public hearings to be held on the subject of an initiative; in 1980, these public hearings became required. A final significant change in the logistics of the initiative came in 1998, when Proposition 219 prohibited the jurisdiction of any statewide ballot initiative to vary among county, city, or other local jurisdiction based upon the results of the vote on the measure within that particular region.

During the period of 1912-1969, initiatives were somewhat rarely used: the decades from 1912-1969 averaged just under 2.5 qualified initiatives per year. Of those that did qualify, approximately 25 percent were met with voter approval. The subject range was incredibly vast. Initiatives attempted to govern all aspects of life, from social behavior to criminal punishment, bonds to taxation, environmental issues to labor. By and large, however, during this period, the initiative was not seen as the “Fourth Branch of Government,” as it is now often described.

HISTORY: PROPOSITION 13 AND THE INITIATIVE INDUSTRIAL COMPLEX

The 1970s saw an increase in the number of initiatives qualified for the ballot, as they steadily moved from about 4.5 in the 1970s to nearly 13 in the 2000s. For over three decades, a divided state government had resulted in legislative deadlock, making the uptick unsurprising as frustrated citizens and interests sought to bypass the impotent legislature in order to input their favored policies. The average number of initiatives titled per year in the 1970s leaped to nearly 14, and the number has steadily increased ever since.

The initiative as an alternative form of government was strongly validated in 1978 with the passage of the now famous Proposition 13. Coauthored by conservative political activist Paul Gann and anti-tax

³ Of late, the reenactment of the indirect initiative has been growing in popularity among some reform-minded Californians. However, the overarching legacy of the Constitutional Revision Act of 1966 has been the establishment of a full-time legislature. At the time, the overturning of the indirect initiative was somewhat inconsequential. See “Reforms” and the Appendix for more on the indirect initiative.

lobbyist Howard Jarvis, Proposition 13 was a manifestation of the public outcry over skyrocketing property taxes, decried for pricing people out of their homes. Proposition 13 froze both residential and business property taxes at their 1975 levels; it also required a supermajority vote in order to raise taxes in the future. Proposition 13 was incredibly popular, passing with nearly 65 percent of the vote (winning a majority in every California county save two) and inspiring similar laws in 25 other states.

While the widespread ramifications of Proposition 13 have been vast and heavily discussed, its immediate effect on the initiative process itself was largely to raise its profile as a successful mechanism to change the law in California. Special interests of all varieties took to heart the message that pursuing the initiative process, rather than lobbying, was the effective way to influence public policy. This in turn spurred what has been termed the industrialization of the initiative process.

Professional petitioning has more or less always been an aspect of the initiative process in California. It can be traced back as far as World War I, as the steady and rapid increase of the state population continued to serve as a factor in the expansion of the business.⁴ But the success of an initiative as wildly influential as Proposition 13 propelled professional petitioning into a full-fledged and remarkably lucrative industry. Spending on initiative campaigns has risen by 750 percent in last 34 years, peaking in the 2006 general election.ⁱⁱⁱ The conflict of interest at times evident as a result of the initiative industry has given many an observer pause. Looking for ways to generate business for this industry, those who sought to profit from promoting initiatives introduced subjects of their own. That is how the state lottery to provide funds for public schools was born.⁵ There is widespread public speculation that with enough money, an interested party could get virtually any proposition onto the ballot. In 2010, for example, it has been calculated that the average cost per signature of the 11 initiative measures which qualified for the ballot was \$3.52.^{iv}

HISTORY: THE LONG SLOG TOWARD REFORM

The industrialization of the initiative industry has been scrutinized and at times disparaged by many parties. One response has been a proliferation of disclosure laws in an attempt to balance, or at least make transparent, the influence of well-financed interests, be they unions, corporations, or individuals. Up through the nineties, state law required donors to initiative campaigns to be reported. In 1996, Prop. 208 imposed several new rules requiring committees to identify their top donors within the committee's name and to list top donors in campaign advertisements. The following year brought Senate Bill 49, which required online disclosure for committees raising or spending more than \$50,000. In 2000, Prop. 34 lowered that figure to \$5,000 and set a deadline of ten business days to report.⁶ In 2003, Secretary

⁴ The firm of one entrepreneur, Joseph Robinson, which operated by paying employees per valid signature collected, held a virtual monopoly in the industry from approximately 1920-1948. Mr. Robinson estimated that he worked on 98 percent of successful initiative campaigns during that period. Schmitt, David, *Citizen Lawmakers*, p. 225.

⁵ An entrepreneur in possession of a signature-gathering firm by the name of Fred Kimball in 1984 filed an initiative to create a California Lottery with the Attorney General in advance of shopping for a client to pay his firms to gather signatures. Scientific Games, a Georgia company which supplies materials and technologies required to put on lotteries, agreed to pay Kimball's company \$2 million to collect signatures for what became Proposition 37. Californians approved Proposition 37 with a vote of 58 percent. Mathews, Joe and Paul, Mark, *California Crackup*, p. 61-62.

⁶ Prop 34 originally allowed an exception for money spent within 90 days of an election, a rule which was eliminated the following year in 2001.

of State Kevin Shelley enhanced the Cal-Access website to expand disclosure by adding to it a searchable database of campaign contributions and expenditures.^v

Measures enhancing disclosure have been coupled with the efforts of many diverse, respected organizations to reform the initiative and referendum processes in order to achieve various goals, including restoring direct democracy to its original purpose of empowering the people, leveling the playing field, and facilitating the efficient and effective governance of the state, among many others. The League of Women Voters launched its first study of Initiative and Referendum in 1984, which was subsequently updated in 1998. In 1992, the Center for Governmental Studies released its landmark *Democracy by Initiative*, which in turn was updated in 2008. *California's Statewide Initiative Process* was published by the California Research Bureau in 1997. In 2002, the Speakers Commission on the California Initiative Process also published a report. The short-lived "Vote No on Everything" movement of 2009 attempted to address the issue by encouraging voters to vote down every initiative measure. A failed attempt in 2010 to qualify an initiative requiring a Constitutional Convention was suspected by some of being aimed at reforming the initiative process. There have been scores of books written on the subject, all bursting with suggestions for reform.⁷ Newspaper and magazine articles of both local and global reach are regularly published, variously exposing the flaws of the initiative process or touting the merits of the latest in a long line of proposed fixes. As of yet, however, the spirited public discourse has not materialized into any concrete changes--or even consensus that there ought to be change--and there seems to be no end in sight to the discussion.

⁷ See Bibliography for full list of resources.

CURRENT PROCESS: PATH TO THE BALLOT

WHOSE TOOL? THE LEGISLATURE’S OR THE PEOPLE’S?

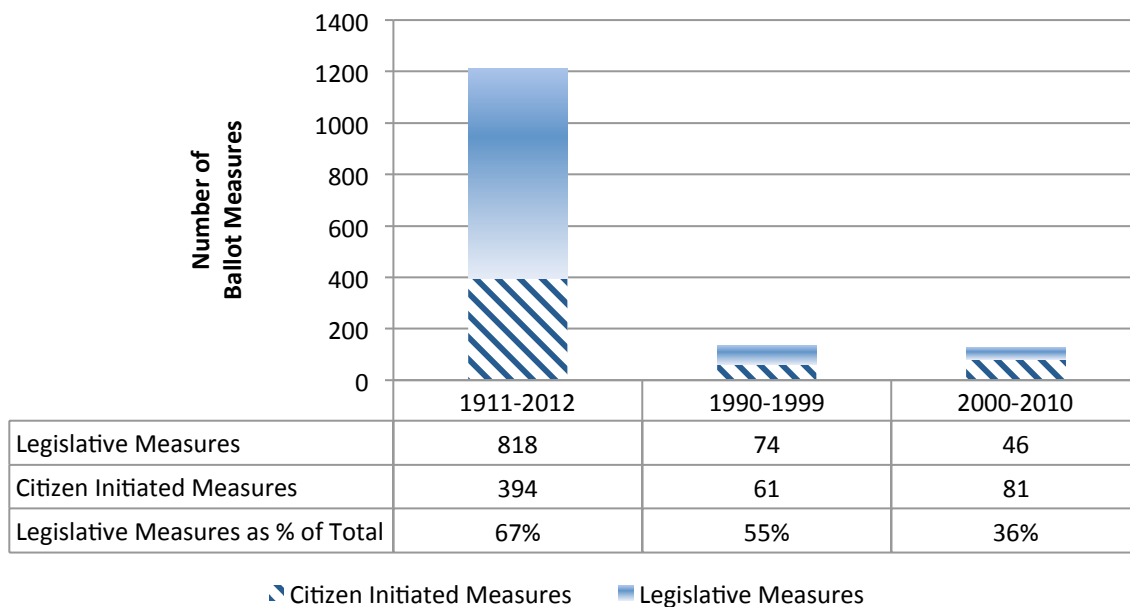
Despite the reputation of ballot measures as “the people’s tool,” most measures are placed on the ballot by the legislature rather than by citizen petitions, according to the database maintained by the National Conference of State Legislatures.^{vi}

Legislative Referendum - Legislature can send a proposed bill to the people instead of deciding themselves

The California Legislature frequently uses its authority to put measures on the ballot in the form of legislative referenda, bond measures, and constitutional amendments. The initiative process, on the other hand, is the basis of citizen-initiated ballot measures.^{vii} From 1911 to 2012, more measures have been placed on the ballot by the Legislature (67 percent) than by citizen-initiated measures. However, in the last two decades, that percentage has been reduced. In the decade from 2000 to 2010, the number of citizen-initiated measures was almost twice the number of Legislative measures, suggesting a new trend.

Popular Referendum – People attempt to repeal law passed by the Legislature

Who Creates More Ballot Measures in California?



MAKING IT ACCESSIBLE—BUT NOT TOO EASY

Referendum (or plebiscite) is a general term used across the country to denote the process of referring a proposed or existing governmental policy or institution to the voters for approval or rejection. This study uses the California definitions of initiative and referendum, except in the Appendix where the practices of other states are examined. The California Constitution defines a key difference between an initiative and a referendum: *propose (and adopt or reject)* versus *approve or reject*.

California currently uses the direct initiative process, where a qualified petition (with the correct number of valid signatures) goes directly to the ballot and avoids the Legislature. The indirect initiative, on the other hand, allows the proponent of a statutory initiative to gather signatures and present the measure to the legislature for enactment. If the measure is enacted by the Legislature, it becomes law and the measure is not placed on the ballot^{viii}.

Steps in the process for bringing a measure to the ballot are balanced to allow citizen-initiated measures to reach the ballot by meeting some requirements while inhibiting nuisance or narrow interests from overwhelming the process or the ballot. That balance could be shifted by changes in the length of time allowed for gathering citizen signatures, the number of signatures required, the amount of the filing fee, or defining how signatures may be gathered. The Legislature's process, in comparison, usually begins with the drafting of a bill in the fall, which is passed to the Rules committee and on to one or more policy committee hearings depending on the topic, and finally, if it would cost money, it goes to the Appropriations Committee before going to the full House for a vote. If it passes, the entire process is repeated in the other House. Once it passes both Houses, it goes to the Governor for signature, often at the end of the session. Compared to the legislative process, the "people's process" is streamlined and has minimal oversight.^{ix}

Sample timelines and flow charts are available from LWVC.org

Why did the Indirect Initiative Process go away?

This process was in effect from 1912 to 1966, but seldom used. Prior to 1964, the legislature met in biennium session: The first year was devoted solely to the budget and the second year devoted to legislation, giving proponents a short period of time every two years to use the indirect process.

Due to lack of use, the indirect initiative was repealed in 1966 as part of the California Constitution Revision Act.

California Constitution:

*Initiative – The **power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.***

*Referendum – The **power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.***

CURRENT PROCESS: EXAMPLE OF TWO CAMPAIGNS

The following is a study of two recent initiative statute campaigns. It is included to provide a real-world examination of the process for qualifying an initiative for the ballot. One campaign (the SAFE California Act) began as a “grassroots” effort, although it became more of a hybrid campaign; the proponents were comprised of individual citizens and groups without either a large single organizer or many sources of major funding. The “well-funded” campaign (2012 Auto Insurance Discount Act) was largely organized and funded by a single individual. The process for qualifying and the appeal to voters of the two campaigns are shown, along with some notes about the referendum process.

	<i>Hybrid Campaign SAFE California Act</i>	<i>Well-Funded Campaign 2012 Auto Insurance Discount Act</i>
Description	Proponent: Jeanne Woodford c/o James C. Harrison (510) 346-6200 Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole.	Proponent: Mike D'Arelli (916) 283-9473 Changes current law to permit insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company.

1. DRAFTING, REVIEW AND TITLING THE BALLOT MEASURE

HOW TO GET STARTED – YOU CANNOT DO IT ALONE

To tap public sentiment or sufficiently shape public opinion, placing a measure on the ballot requires organizing, strategy, legal work, and usually money. Campaign veterans caution that unless public opinion research shows strong support for a measure, it is unlikely the campaign will be successful in gathering enough signatures to qualify or in winning an election. The Hybrid Campaign may rely on existing research which shows public opinion in favor of a measure. A Well-Funded Campaign may hire an opinion-research firm to conduct a statewide study of themes and messages in advance of launching a petition campaign.

To adhere to campaign finance regulations, campaigns must file a statement with the Secretary of State about their organization and identify a treasurer as soon as \$1,000 or more in contributions have been received.

	Hybrid Campaign SAFE California Act	Well-Funded Campaign 2012 Auto Insurance Discount Act
Financial Contributions - Support	\$3,130,498 as of 6/9/12 Recipient Committee #1341187 1 donor - \$500,000 2 donors - \$250,000 2 donors - \$125,000 4 donors > \$50,000 20 donors - \$10,000 - \$50,000 43 donors - \$1000 - \$5,000 693 donors - \$25 - \$1,000	\$8,276,343 as of 6/9/12 Recipient Committee #1340976 1 donor - \$8,227,127 10 donors - \$1,000 - \$14,000 24 donors - \$100 - \$500
Financial Contributions – Opposed		\$98,117 as of 6/9/12 Recipient Committee #1322520 \$56,550 from Campaign for Consumer Rights \$40,616 from Consumer Watchdog

With the signatures of 25 initial signers, a campaign may submit a proposed measure to the Legislative Counsel for assistance in drafting the proposed law. Although statistics are not available from the Legislative Counsel’s office on the percentage of campaigns which get assistance in drafting a measure, the 70-80 member staff usually has a lead time from 30-60 days to respond. A Well-Funded Campaign will likely engage a specialty election law firm in drafting its measure and making sure the campaign committee is legally compliant.

THE ATTORNEY GENERAL WRITES THE TITLE

With a draft in hand, the campaigns can now submit their measures to the Attorney General along with a \$200 fee. The Attorney General reviews the measures and creates a title and summary for each measure within 15 days. If the proponents decide to change a measure during this time, the clock is reset and the 15-day deadline starts from the day an amendment is received.

State law requires the Attorney General to provide an "impartial statement of the purpose of the measure" in language unlikely "to create prejudice for or against" the proposal. But a review of recent initiatives has increasingly shown that the Attorney General's language could have been copied from the talking points for one side or the other. That has led some to suggest that the task of titling and preparing the summary should be turned over to the Legislative Analyst's Office, which prepares the impartial ballot measure analyses that appear in the official voter guide.

	Hybrid Campaign SAFE California Act	Well-Funded Campaign 2012 Auto Insurance Discount Act
Sent to AG	8/26/2011	6/21/2011 Amended measure submitted to AG’s office

If the Attorney General determines that voter approval of the proposed initiative will result in a substantial net change to the State’s finances, it is forwarded to the Department of Finance and Joint Legislative Budget Committee (JLBC) for their opinion, which can take up to 25 days. (The Legislative Analyst’s Office performs the fiscal analysis for the JLBC.) After receiving the fiscal opinion, the Attorney General has another 15 days to complete the title and summary.

	<i>Hybrid Campaign SAFE California Act</i>	<i>Well-Funded Campaign 2012 Auto Insurance Discount Act</i>
Finance and Joint Legislative Budget Committee	Net savings to the state and counties that could amount to the high tens of millions of dollars annually on a statewide basis due to the elimination of the death penalty.	Probably no significant fiscal effect on state insurance premium tax revenues

At the end of this review, a measure is given a unique numeric identifier along with its title and summary, and sent to the proponent and the Secretary of State. The date this is mailed is the Official Summary Date, used to calculate all future petition deadlines. Signature gathering can begin!

	<i>Hybrid Campaign SAFE California Act</i>	<i>Well-Funded Campaign 2012 Auto Insurance Discount Act</i>
Title	Death Penalty Repeal. Initiative Statute. 1512. (11-0035) No hearings were conducted by the Assembly or Senate after the Title and Summary were released by the AG.	Changes Law to Allow Auto Insurance Companies to Set Prices Based on a Driver's History of Insurance Coverage. Initiative Statute. 1495. (11-0013, Amdt. #1S)
Summary Date	10/20/11	8/11/11

In addition, the measure is sent to the Assembly and Senate which may conduct public hearings about the measure, but the Legislature cannot amend the measure. (Legislative hearings at this point are rare.)

During this time, both campaigns are heavily engaged in gathering supporters and shaping public opinion through media events. The Hybrid Campaign is likely creating a field organization to deploy signature gatherers to at least the largest of the state’s 58 counties, or evaluating if contributions will afford the campaign enough money to hire some professional petition circulators. The Well-Funded Campaign engages professional petition circulating firms to collect the required signatures in the allotted time.

Regular reporting of contributions and expenditures to the Secretary of State is required by the state’s Political Reform Act.

2. QUALIFYING FOR THE BALLOT

GATHERING SIGNATURES

The next phase of the process is the most costly part of getting a measure on the ballot. For the Hybrid Campaign, organizing, training, and supplying supporters with legally-constructed petitions in 58 counties requires coordination and possibly networking to get an average of 5,384 signatures per day in the 150 days allowed.

Both campaigns are responsible for ensuring signature gathering is conducted in a lawful manner and that signature gatherers are trained and aware of criminal penalties for failure to follow the law.

Some grassroots organizations utilize the Internet or social networking media to educate volunteer circulators and organize and train proponents to access and print blank petitions.

Using professional, paid petition circulators, the Well-Funded Campaign can offer premiums to increase the number of signature gatherers or pay more per signature as the submittal deadline nears. According to Ballotpedia, in 2010, the average Cost per Required Signature in California (CPRS) was \$3.52. Using that figure, the campaigns could spend \$2.3 million to gather enough signatures to ensure qualifying an initiative statute (504,760 plus an additional 176,666 signatures to allow a 35 percent “buffer” to qualify.)

As expenses and contributions continue, both campaigns submit ongoing campaign reporting forms to the Secretary of State.

By the Numbers

In 2012, to be placed on the ballot, an initiative statute requires 504,760 valid signatures, or 5 percent of the total votes cast for governor in the last election; a constitutional amendment requires 807,615 valid signatures, or 8 percent of the total votes cast for governor in the last election.

	Hybrid Campaign SAFE California Act	Well-Funded Campaign 2012 Auto Insurance Discount Act
Deadline to submit signatures	3/19/12 (150 calendar days from Summary Date. Must also be early enough for signatures to be verified at least 131 days before the November 6th election: 6/28/12) Received 3/12/12	1/9/12 (150 calendar days from Summary Date. Must also be early enough for signatures to be verified at least 131 days before the November 6 th election: 6/28/12) Received 11/17/11

	Hybrid Campaign SAFE California Act	Well-Funded Campaign 2012 Auto Insurance Discount Act
Signatures Required	<p>504,760</p> <p>796,656 signatures received by County Election Officials on 3/12/12.</p> <p>According to the campaign, “We had a very large operation, with full time organizers from several groups, and we were able to get 100,000 pure volunteer signatures. That is great, but not nearly enough to qualify without the paid operation as well. The volunteer operation significantly lowered our costs, but getting on the ballot is still extremely expensive.” (Erin Mellon, SAFE California Act 3/9/12)</p>	<p>504,760</p> <p>838,355 signatures received by County Election Officials from 11/17/11 to 12/29/11.</p>
Gathering Signatures	<p>According to the campaign, “We had a paid signature gathering firm who we (sic) also reviewed our volunteer signatures. We paid the firm \$1.75 for signatures they collected and \$0.40 for review and processing of signatures we collected. They also handled all of the work of turning in to the counties. We did review our own volunteer signatures before sending to the paid firm, but we were only able to check things like did they fill the form out correctly. We needed the paid firm to match against the voter file and check for duplicates. We could not have done that as a grassroots effort.” (Erin Mellon, SAFE California Act, 3/9/12.)</p> <p>Average cost per signature gathered was \$1.58 (100,000 signatures @ 40 cents each plus 696,656 signatures @\$1.75 each)</p> <p>The campaign utilized YouTube videos and community training sessions to train petition circulators.</p>	<p>Paid \$1,700,918 to Arno Political Consultants for Petition Circulation: \$2.03 cents per signature gathered (\$1,700,918 divided by 838,355 signatures.)</p>

TIME'S UP

As the 150-day filing deadline from the Summary Date approaches, each campaign is checking completed petitions for illegible, incomplete, or duplicate signatures in order to qualify before 131 days prior to the election. As a rule of thumb, campaigns gather 25-35 percent more signatures than needed to compensate for invalid signatures, although in this example, the Well-Funded Campaign gathered around 800,000 signatures, nearly 60 percent more than required.

Coordination among signature gathering efforts in 58 counties is required to ensure the deadline is met. For the volunteer campaign operating without a centralized paid staff, this level of coordination is difficult. All petitions circulated within a particular county must be submitted to the County Election Official on the same day. Once the petitions are submitted, the focus now shifts to the County Election Officials and the Secretary of State to determine if the required number of valid signatures was achieved.

Within eight (8) days of receipt, County Election Officials report the number of signatures received for each measure. The Secretary of State then determines if the minimum number of signatures have been gathered among all counties. If so, County Election Officials are asked to generate a random sample of the signatures received and verify them. A minimum of 500 or three percent (whichever is greater) of the signatures received are checked. The top reasons for rejecting signatures are due to not being registered, address mismatch, signature mismatch, name change, and duplicate signatures (duplicate signatures are heavily penalized in tabulating the total number of valid signatures). Within 30 days, County Election Officials report the results of the random sample to verify signatures to the Secretary of State. The Secretary of State applies a formula to determine if the valid signatures are fewer than 95 percent or more than 110 percent of those required. If fewer than 95 percent of the signatures are valid, the measure does not qualify for the ballot. If more than 110 percent, the measure qualifies for the ballot (Random Check).

If the result is between 95 and 110 percent, County Election Officials must verify every signature on the petition within 30 days (Full Check). According to the San Diego County Registrar of Voters, "full checks" of signatures are rare, but costly. That Registrar cited as an example the verification of signatures collected from members of a party that wished to be qualified for the ballot in California. In 2011, a full check was required when a random count revealed 109 percent valid signatures to qualify Americans Elect to be listed on the ballot, just shy of the 110 percent requirement. For that "full check" in San Diego County alone, all signatures (nearly 200,000) had to be checked individually within 28 days.

How would an Indirect Initiative Work?

Prior to 1966 when the Indirect Initiative was eliminated, after the required number of signatures were verified a statutory initiative could have been submitted to the Legislature for deliberation and enactment. If the measure was not enacted, it could have been placed on the ballot.

	Hybrid Campaign SAFE California Act	Well-Funded Campaign 2012 Auto Insurance Discount Act
Signature Verification Both campaigns gathered about 60 percent over the required signatures.	Random Sample Update: 4/23/12 Random Sample checked 37,148 signatures. <ul style="list-style-type: none"> • Valid signatures: 29,373 • Invalid signatures: 7,775 • Duplicates: 166 • Projected valid: 586,954 • 110% would be: 555,236 Measure qualifies for the ballot.	Random Sample Update: 1/18/12 Random Sample checked 38,640 signatures. <ul style="list-style-type: none"> • Valid signatures: 27,944 • Invalid signatures: 8,696 • Duplicates: 91 • Projected valid: 599,398 • 110% would be: 555,236 Measure qualifies for the ballot.

DECISION DAY

Once the required number of signatures has been verified, the Secretary of State advises the campaigns and County Election Officials that the measure has qualified for the ballot. Copies of the measure are sent to the Assembly and the Senate, where each house assigns the initiative to the appropriate committee for joint public hearings which may be held within 30 days prior to the election. The Legislature cannot amend the initiative or prevent it from appearing on the ballot.

	Hybrid Campaign SAFE California Act	Well-Funded Campaign 2012 Auto Insurance Discount Act
Legislative Public Hearings	According to the campaign, "There will be a joint hearing and the campaign wants it to happen so we can bring attention (media and otherwise) to the campaign and the initiative." (Erin Mellon, SAFE California Act 3/9/12)	(Received no response from the campaign on legislative intentions to hold public hearings. 7/21/12)

3. CAMPAIGNING FOR OR AGAINST A BALLOT MEASURE

At this point, the campaigns are in high gear promoting their measures through multiple media efforts. Care must be taken in all forms of media including web banners, Twitter feeds, text messages, and broadcast ads to reveal the name of the campaign committee or persons supporting the campaign. Disclosure laws require that campaigns identify donors who give \$50,000 or more in a 12-month period, as well as any spokesperson paid \$5,000 or more.

4. DISCLOSURES REQUIRED

As Election Day draws near, special attention must be paid in reporting late-arriving donations to the Secretary of State, since campaign contribution and expenditure information is heavily scrutinized by voters.

5. VOTING METHODS, NUMBERS AND WHEN MEASURES TAKE EFFECT

As the votes are counted, if a statewide measure receives the majority of votes in the election it passes, whether it is placed on the ballot by the initiative process or by the Legislature. That is true for both statutory and constitutional amendment measures. (A legislative constitutional amendment requires a two-thirds vote of both houses of the legislature to be placed on the ballot, but like an initiative constitutional amendment, it requires only a simple majority vote of the people to be passed.) An initiative measure will take effect the day after the election unless otherwise specified by the initiative itself. Some initiatives will state that they should go into effect on January 1 or another specific date. If two conflicting measures pass, only the one with the most votes will take effect.

6. AFTER ELECTION

The work of running a campaign is not over until the campaign committee has finalized all accounts, paid all bills, and disposed of any assets. Then a final report must be submitted to the Secretary of State showing the ballot measure committee has been terminated.

ⁱ Id, 166.

ⁱⁱ Id, 167.

ⁱⁱⁱ Center for Governmental Studies. *Democracy By Initiative: Shaping California's Fourth Branch of Government* (2nd ed.). Los Angeles: Center for Governmental Studies, 2008.

^{iv} See Ballotpedia, <http://ballotpedia.org/wiki/index.php/2010_ballot_measure_petition_signature_costs> (accessed July 24, 2012).

^v Alexander, Kim. *Initiative Disclosure Report and Recommendations*. Sacramento: California Voter Foundation, 2011.

^{vi} National Conference of State Legislatures, Ballot Measure Database (2012) <http://www.ncsl.org/legislatures-elections/elections/ballot-measures-database.aspx> (accessed July 31, 2012).

^{vii} Center for Governmental Studies, *Democracy by Initiative*.

^{viii} Silva, Fred J. *The California Initiative Process: Background and Perspective. Resource Material for The Speaker's Commission on The California Initiative Process*. November 2000. California Public Policy Institute.

^{ix} Sheila James Kuehl. *Either Way You Get Sausages: One Legislator's View of the Initiative Process*, 31 Loy. L.A. L. Rev. 1327 (1998). Available at: <http://digitalcommons.lmu.edu/llr/vol31/iss4/10>.

Ever since direct legislation procedures were adopted in California, there has been talk about changing them. In fact, the 100th anniversary of the adoption of California’s initiative process has provided a rich field of material and reform ideas. This section surveys a broad expanse of general and specific reform ideas, many of which have been discussed in previous sections. The reform proposals presented in this section are not necessarily ideas being proposed by LWV, but rather ideas in general circulation, presented as impartially as possible.

Each sub-section is a chart listing the reform topic (left column) and where the idea came from and the various groups proposing reform (across the top). Proposal proponents include the League of Women Voters of California, Center for Governmental Studies, The Economist (Democracy in California April 2011), California Crack Up, Cain & Noll – Constitutional Reform in California, the Greenlining Institute – Disclosure Reform, California Speaker’s Commission 2002, What’s Next California Poll October 2011, and the Public Policy Institute. These sources are not meant to be comprehensive, but rather places where these ideas are discussed and where more information can be sought.

For each of the line items in the following charts, there is further information about the current situation, each proposal, theirs pros and cons, and the League’s current position on reform online at LWVC.org if you search for “Initiative and Referendum Study.”

			LWVC Position	CGS, Democracy by Initiative	Economist, Democracy in California	California Crack Up	Cain & Noll, Constitutional Reform in California	Greenlining Initiative Disclosure Reform	Speaker’s Commission 2002	What’s Next California Poll October 2011	Public Policy Institute Poll
1	Drafting, Review and Titling the Ballot Measure										
	a.	Mandatory review of wording in proposed measure by official authority	X	X							
	b.	Limit the number of words per initiative									
	c.	Simplify the language of the initiative and ballot pamphlet description	X								
	d.	Specify funding source (new revenue or spending cuts) if the initiative requires new funding								X	
	e.	Require that the ballot label and ballot pamphlet clearly indicate the effect of a yes vote or a no vote	X								
	f.	Require that the Secretary of State's and Legislative Counsel's offices publicize the drafting assistance they can provide, and that state agencies improve the design and content of their websites		X				X			

	LWVC Position	CGS, Democracy by Initiative	The Economist, California Crack-up	Cain & Noll, Constitutional	Greenlining Initiative	Speaker's Commission	What's Next California Poll	Public Policy Institute Poll
2 Qualifying for the Ballot								
a.	Change the number of signatures required to qualify for the ballot, and the verification process	No	X		X	X		
b.	Change the time allowed to circulate petitions	No	X	X	X			
c.	Change the fee charged to file an initiative and/or require filing fees to reflect the costs of processing	X						
d.	Require geographic distribution of signatures	No						
e.	Ban paid petition circulation							
f.	Require that solicitation of signatures and solicitation of campaign funds be done in separate mailings	No			X			
g.	Allow voters to sign petitions on line							
h.	Allow voters to sign petitions for or against							
i.	Allow the legislature to propose counter-measures that go on the ballot alongside the competing initiative			X		X		
j.	Allow initiative proposals which do not win voter approval to appear on subsequent ballots without restriction, if they again meet qualification requirements	X						
k.	Require that the Legislative Analyst prepare an early impartial analysis of each initiative		X					

	LWVC Position	CGS, Democracy by Initiative	Economist, Democracy in California	California Crack Up	Cain & Noll, Constitutional Reform in California	Greenlining Initiative Disclosure Reform	Speaker's Commission 2002	What's Next California Poll October 2011	PublicPolicy Institute Poll
3 Campaigning For or Against a Ballot Measure									
a.	Limit contributions by individuals and groups	X	X						
b.	Limit campaign expenditures	X	X						
c.	Provide tax credits for media information programs on measures	X							
d.	Provide public financing for initiative and referendum campaigns	No				X			
e.	Require that legislative hearings be held around the state pre-election and allow proponents to amend initiatives or negotiate with the Legislature to enact the law and withdraw the initiative	X	X			X	X	X	
f.	Define "average voter" and require that ballot pamphlet analyses and other materials be written at that level		X						

		LWVC Position	CGS, Democracy by Initiative	Economist, Democracy in California	California Crack Up	Cain & Noll, Constitutional Reform in California	Greening Initiative Disclosure Reform	Speaker's Commission 2002	What's Next California Poll October 2011	PublicPolicy Institute Poll
4	Disclosures Required									
a.	Require listing names of principal members of an initiative committee in the ballot pamphlet, mailings and/or ads and limit or eliminate "first bite of the apple" exception	X	X				X	X	X	
b.	Require listing names of principal contributors to an initiative sponsor or committee in the ballot pamphlet, mailings and/or ads, and specify contributors' cities and states of residence or principal office	X	X				X	X	X	
c.	Require listing in the initiative petition, ballot pamphlet, mailings and/or ads the names of organizations which form a committee specifically to support or oppose a ballot measure						X	X	X	
d.	Require that committees use names that reflect their true economic or special interest, rather than something like "Good Government Committee"	X					X			
e.	Provide on-line access to all disclosures by "average voters" in a form that allows search rather than just pdf disclosures, and require the Secretary of State to publish on-line data		X							
f.	Reinstate the FCC's Fairness Doctrine for ballot measures		X				X			
g.	Require specific accounting rules for sources of funding including disclosure of cumulative contributions						X			
h.	Implement routine enforcement of disclosure laws and regulations instead of only responding to complaints						X	X		
i.	In the ballot pamphlet, direct voters to the Secretary of State website									
j.	Require the Secretary of State to conduct campaign finance research and publicize the findings, and improve the Cal-Access disclosure web site, and allow other government agencies to publicize disclosures		X				X			

			LWVC Position	CGS, Democracy by Initiative	Economist, Democracy in California	California Crack Up	Cain & Noll, Constitutional Reform in California	Greenlining Initiative Disclosure Reform	Speaker's Commission 2002	What's Next California Poll October 2011	PublicPolicy Institute Poll
5	Voting methods, numbers and timing of elections										
	a.	Vote on statutory and constitutional initiatives only at general elections	X								
	b.	Require more than a simple majority vote for adoption, or require all initiatives to pass with a majority vote in two consecutive elections	No								
	c.	Require that an initiative which calls for a super-majority vote for passage of future related issues (such as taxes) be required to receive the same super-majority vote approval for its passage		X						X	
	d.	Group initiatives on the ballot according to subject matter		X							
	e.	Allow voters to choose whether to receive the ballot pamphlet via e-mail instead of regular mail		X							

			LWVC Position	CGS, Democracy by Initiative	Economist, Democracy in California	California Crack Up	Cain & Noll, Constitutional Reform in California	Greenlining Initiative Disclosure Reform	Speaker's Commission 2002	What's Next California Poll October 2011	PublicPolicy Institute Poll
6	After Election										
	a.	End the prohibition on legislative changes in statutes adopted by initiative									
	b.	Automatically re-submit an initiative already on the books to voters after a specified period of time									
	c.	Provide some/all initiatives with a "sunset clause" which would automatically phase out the law after a specified period of time	X		X						
	d.	Allow the Legislature to amend any initiative after enactment by a two-thirds supermajority vote.		X						X	

			LWVC Position	CGS, Democracy by Initiative	Economist, Democracy in California	California Crack Up	Cain & Noll, Constitutional Reform in California	Greenlining Initiative Disclosure Reform	Speaker's Commission 2002	What's Next California Poll October 2011	PublicPolicy Institute Poll
7	Legal Aspects										
	a.	Redefine "single subject" to ensure stricter interpretation and enforcement	X	NO					X		
	b.	Constitutional challenges to voter-approved initiatives should be reviewed by a three-judge panel rather than a single judge	X								
	c.	Constitutional challenges should be heard at the Appellate level, omitting the trial court hearing									
	d.	Re-evaluate the rules for resolving conflicting initiatives		X							
	e.	Augment state constitutional revision procedures by allowing the voters to revise the constitution through initiatives, and by convening an automatic revision commission every 20 years and a constitutional convention in the alternate 20 years		X							
	f.	Include language in the ballot pamphlet stating that the validity (constitutionality?) of any initiative that is approved may be challenged in subsequent legal proceedings							X		

CONCLUSION AND FOR MORE INFORMATION **PAGE 21**

No single reform idea in the comprehensive listing of this section is presented as a possible “magic bullet” that could solve the issues raised in this study. Amending California’s initiative and referendum process will involve close attention to the current process, evaluation of the history of previous reform attempts, consideration of the experiences of other states, and awareness of unintended consequences.

For more information:

The original study guide used by League of Women Voters members was 100 pages long, with additional charts, graphs, handouts, articles, videos, and other content. Many local Leagues arranged guest speakers and held multiple discussions about the content.

If you’d like to use any of these resources, please emails us at lwvsf@lwvsf.org or find them online yourself by visiting LWVC.org and search for **Initiative and Referendum Study**.