



Trendlines

A brief survey of ballot initiative activity around the country

July 2009

Political Analysis

This summer Washington will be engaged in big debates on health care, energy, and President Obama's first nomination to the Supreme Court. But in the states, a fragmented and leaderless right wing is advancing more of the same ballot initiative and referendum issues they have in the past for the 2009 and 2010 elections.

There doesn't appear to be any overarching political strategy other than providing a jobs program for out-of-power conservative operatives. In fact, in some cases, the issues they are moving to the ballot will probably hurt Republican candidates more than they will help in the 2010 elections.

For example, the same old attacks on workers and the unions that represent them could boost turn-out of union households in the off-year elections. The continuing big government assault on a woman's freedom to choose her own health care decisions will force their candidates to take radical and extremist positions that will turn off moderate voters.

The tired, anti-government revenue and investment cap measures that failed in 2005 and 2006 are making a comeback in 2009 and 2010. These initiatives will force Republican candidates to support drastic cuts that go beyond the cuts states are already making with the national economic downturn. No matter where the economy is a year from now, having ballot initiatives that force drastic cuts in revenue and result in preventing states from investing in their priorities--job creation, economic development, education, health care, roads and bridges, and police and fire protection--may not be what voters are looking for as states try to get their economies moving again.

At the national level the Republican Party continues to seem content branding itself as the "party of no." When it comes to the ballot initiative and referendum landscape at the state level, right wing conservatives are offering an equally damaging brand of "all of the above" with divisive ideology and failed policy proposals that voters have rejected.

Maine 2009 Fall Ballot

In Maine, three ballot initiatives will appear on the ballot this fall dealing with taxes and spending. In addition to another attempt at passing a TABOR revenue cap measure after voters rejected a similar measure in 2006, an initiative calling for an excise tax reduction which cuts funding for local government investments in road and bridge construction and repair is also on the ballot. The legislature has also forwarded another measure to the ballot that would ask voters to approve bonding for transportation projects.

Two of the proposed ballot questions were developed by the *Maine Heritage Policy Center* and put on the ballot by another conservative group, [Maine Leads, which is now under an ethics investigation.](#)

Maine Leads gathered signatures for a revenue cap measure being referred to as [TABOR II](#). This provision imposes rigid spending limits that will hurt important priorities like education and health care in the middle of a recession that has already forced major cutbacks to important services. TABOR II will require costly referendum elections, at both the state and local levels.

The group has also submitted signatures for an [excise tax reduction](#). The initiative would take away money communities need for road maintenance and plowing, forcing communities to either put off repairs or raise property taxes. The measure is a big tax break for those who can afford new cars, but it does nothing for Mainers who drive older cars.

Additionally, Maine voters will be asked to weigh in on a repeal of the state's 2007 school consolidation law. Approximately 50% of Maine's public school students, primarily in the more densely populated areas of the state, go to schools that were exempted from the task of consolidating. The remainder of rural Maine is largely exposed to the consolidation law and it is in these areas where the opposition to the law is strongest.

A [medical marijuana initiative](#) will also appear on the ballot in Maine. Fourteen states have legalized medical marijuana for the treatment of a host of health problems such as HIV/AIDS, cancer, hepatitis C, and Alzheimer's disease.

There is also an effort in Maine to collect 55,087 valid signatures of registered voters by August. This is being done in order to place a citizen's veto of the marriage equality measure on the fall ballot, despite the fact that it has been passed by the legislature and signed by the governor. To date, five states have approved marriage equality through either the legislature or the courts--Iowa, New Hampshire, Vermont, Massachusetts, and Connecticut.

Should opponents of marriage equality succeed in Maine by getting a veto on the ballot, [supporters of marriage equality](#) are organizing to protect the new law.

Washington 2009 Fall Ballot

The deadline is July 3 for filing signatures to place an initiative on the Washington ballot this fall. At this time, it looks as if only one of the twenty proposed initiatives will qualify with the necessary 240,000 valid voter signatures.

The measure is backed by [Tim Eyman](#), a "professional initiative salesman" who is selling a [TABOR initiative](#) that would cap both state and local revenue and spending. Eyman has a history of scandal including cases of [profiteering off his ballot efforts](#). Campaign records showed Eyman had transferred money -- a lot of money -- from his political action committee (*Permanent Offense*) to a for profit corporation he had created with the same name (*Permanent Offense Inc.*).

There is also an effort in Washington by right-wing activists to put a referendum on the ballot that would ask voters to repeal an "everything but marriage" law that was passed by the legislature and signed by the governor. The law adds registered domestic partnerships to all statutes that apply to married couples. This means that registered same-sex couples will now have the same legal rights that opposite-sex couples assumed by virtue of getting married. The law is a culmination of efforts to end the longtime discrimination against gays and lesbians as it relates to housing, hiring, hospital visitation, child custody and many other legal matters.

[Supporters of domestic partnerships](#) have organized against this referendum effort and it will only make the ballot if proponents collect more than 120,500 valid voter signatures by July 25.

TABOR II

For years, Washington D.C. based anti-government leaders and organizations have used the state ballot initiative process to advance anti-government tax measures. In 2008, ballot measures were once again rejected by voters in Massachusetts, New Hampshire, North Dakota, and Oregon. In 2006, after six TABORs were stripped from the ballot for signature fraud and other problems, voters in Maine, Nebraska, and Oregon firmly rejected the rest.

The national economic downturn has hit states across the country hard with lost revenue and massive budget cuts. Budget deficits are preventing states from investing in priorities such as job creation, education, health care, roads and bridges, and police and fire protection.

Anti-government conservatives see the bleak budget picture as an opportunity to ratchet down even harder as states look to find the revenue necessary to protect priorities, create jobs, and get their economies moving again.

Rigid revenue and spending caps or TABOR measures will be in the ballot in Maine and Washington this year. TABOR and other regressive tax measures are also being considered and

debated in several state legislatures as possible referrals to the 2010 ballot. TABOR or other regressive tax measures could also be put on the 2010 ballot through initiative campaigns in Arizona, California, Colorado, Florida, Michigan, Missouri, and Washington—but it's still very early in the process.

Extreme Attacks on Women's Health Continue

Measures to restrict reproductive freedom are often an [unsuccessful strategy](#) for anti-choice forces.

In Colorado, right-wing activists put forward a "Definition of Person" initiative in 2008 that divided conservatives. This rewrite of the state constitution sought to overturn Roe v Wade by redefining "personhood" at the moment of fertilization, giving legal rights to embryos. The initiative was rejected strongly by 73% of voters.

Despite this drubbing, the "personhood" activists moved forward this year and tried to get legislative referrals on the ballot in Alabama, Maryland, Montana, North Dakota, South Carolina, and Tennessee. The legislative referenda efforts failed in every state but Tennessee; however, they could be taken up again next year for the 2010 ballot. In Tennessee, the proposed constitutional referenda would need to pass a two-thirds vote of the legislature next year to appear on the 2010 ballot.

The initiative continues to [divide conservatives](#). Recently, both North Dakota Roman Catholic bishops and North Dakota Right to Life were critical of the effort to advance "personhood" legislation. The effort was seen as [so extreme that it failed](#) to pass a Republican controlled State Senate.

In Montana, a personhood initiative has been filed. Oregon and Mississippi have begun petition drives to put a personhood constitutional amendment on the ballot in 2010.

[The initiatives](#) would end a woman's right to choose, ban several of the most medically safe forms of birth control, restrict common fertility treatments, such as in vitro fertilization, and put an end to stem cell research. Perhaps most dangerous is the possibility that criminal investigations could be launched against women for their miscarriages.

In Missouri, three initiatives have been approved to circulate signature petitions, one which would prevent any government funding going towards abortion (even if it were to save life of mother), and another which would ban state government funding for stem cell research. In 2006, Missouri voters approved an initiative that allowed for stem cell research and therapies while banning human cloning. There is also a third initiative that has been filed and approved to circulate signatures that would ban state funding for both.

In Alaska, an effort is under way to place an initiative on the ballot for the next primary election, which will be in August 2010. The initiative would require young women under 18 years old to notify either a parent or a court and receive consent before they are allowed access to medical care and counseling regarding their reproductive freedom. The sponsors need to gather at least 32,734 signatures before the legislative session starts in January. A similar measure has been defeated three times in California.

In an off-year election, winning the support of middle of the road, independent voters will be a key to success for candidates on the ballot. The "personhood" amendments and restrictions on stem cell research are perfect examples of how the extreme right wing will continue to hold the Republican Party hostage as a minority party by forcing their candidates to take positions far outside the mainstream.

SOS Ballot: Deceptive, Misleading and Frivolous

In an attempt to strengthen corporate influence and enable corporate intimidation, the so-called *Save Our Secret Ballot* campaign (SOS Ballot) is a deceptive, misleading and frivolous multi-state ballot initiative and referenda campaign based in Las Vegas.

The campaign came out with big plans to advance initiative and referenda in thirteen states. To date, they have only been successful in two states--Arizona and Utah. Efforts to pass legislative referrals have failed this year in Florida, Georgia, Missouri, South Carolina, and Washington.

The campaign seeks to undermine and derail the *Employee Free Choice Act* by spreading the lie that it would eliminate secret ballots for all elections, including those for public officials and votes on ballot initiatives. The truth is, the *Employee Free Choice Act* has nothing to do with "elections for public office or public votes on initiatives or referenda," and [it absolutely protects workers right to choose a secret ballot in union elections.](#) The choice would be for workers, not their bosses, to decide how to form a union. Even the *Wall Street Journal* admitted that, "[The bill doesn't remove the secret-ballot option from the National Labor Relations Act.](#)"

SOS Ballot is a frivolous ballot initiative whose supporters even acknowledge will lose in court. The US Chamber of Commerce, the National Right to Work Committee, and the author of SOS Ballot have admitted that that the ballot initiative is a losing legal argument. According to the US Chamber of Commerce's own attorney, Willis J. Goldsmith, the SOS Ballot initiative would have [no impact on labor law](#), even if the *Employee Free Choice Act* were to be passed by Congress. Greg Mourad, the legislative director of the National Right to Work Committee, has said that the courts would hold that "[EFCA preempted the state ballot initiatives.](#)" Even Clint Bolick of the Goldwater Institute, member of the SOS Ballot advisory board, and author of the ballot language has acknowledged that federal law trumps a conflicting state law or constitutional provision.

In Arkansas, proponents of SOS Ballot have twice submitted a draft ballot title to the Attorney General and, twice, the Attorney General has rejected the titles as “ambiguous.” The Attorney General must certify a ballot title before the proponents are allowed to collect any signatures. In Colorado, supporters of SOS Ballot had their first attempt at a ballot title rejected by the Ballot Title board. They submitted three new versions that were preliminarily approved on June 3. In Oregon, two initiatives that would eliminate majority sign up for public employees have not yet been approved to circulate.

The SOS campaign is nothing more than another deceptive, corporate backed effort to attack job security, keep wages low, and cut health care benefits. This comes at a time when families are struggling with layoffs, shrinking wages and skyrocketing health care costs, while corporate CEOs are giving themselves millions in bonuses.

The SOS campaign is currently only collecting signatures petitions in two states -- Missouri and South Dakota. Leading the signature gathering efforts in both states is SOS Ballot National Coordinator Tim Mooney, a former partner with [Arno Consulting, a firm that has a history of deceptive and fraudulent practices and tactics.](#)

Ward Connerly is Back, Outlawing Equal Opportunity

In 2008, multi-millionaire Californian Ward Connerly lost in four of the five states in which he attempted to re-write state constitutions and pass his divisive initiatives to ban equal opportunity programs. His campaign was plagued by charges of fraud and deception in every state and as a result, he failed to qualify for the ballot in Arizona, Missouri, and Oklahoma. Connerly's initiative was defeated in Colorado and passed in one state -- Nebraska.

On June 23, the [Arizona legislature gave Connerly “preferential treatment”](#) and put his initiative on the ballot after Connerly made a [made “a plea” to the state legislature](#) to do for him in 2010 what he couldn't do for himself in 2008--put an initiative on the ballot to end equal opportunity programs in Arizona.

While Connerly says, “We can look at people's needs, their income, their social condition,” his initiative would do no such thing. Connerly's initiative would not reform equal opportunity programs to account for economic factors, it would outlaw them completely.

In 2008, Connerly spent nearly \$1 million in out-of-state funding in his unsuccessful attempt to get his initiative to rewrite the Arizona constitution on the ballot. Now, the Arizona legislature has saved him at least a \$1 million since he won't have to spend money on paid signature gathering efforts.

Connerly also filed his equal opportunity ban in Missouri for the 2010 ballot but the language and summery for his initiative was recently thrown out by a judge, so opponents of equal

opportunity will have to re-submit their filing before they can start collecting signatures. In 2008, Connerly faced charges of using deceptive tactics in Missouri and desperately recruited people from out-of-state to help him gather signatures, [including a racist group from California](#). It has also been reported that one of Connerly's paid signature gathers was picked up by the police because he was wanted in three states for [signature gathering fraud](#) related charges. At the end of the day, the so-called "Civil Rights Initiative" failed to gain enough valid signatures to qualify for the ballot in Missouri.

Connerly has personally raked in millions of dollars off his initiatives. Using his two tax exempt, charitable, [non-profit organizations as a personal ATM](#), Connerly has lined his own pockets with over \$7.6 million in profits from 1997 to mid-2006.

This includes over \$500,000 in salary from 2004 to mid-2006 and \$2.2 million in payments that Connerly paid himself just for "speaking fees and interviews." This \$7.6 million figure doesn't include the money Connerly has paid himself since June 30, 2006.

Last year, [The American Conservative](#) revealed: *"In 1998, 22 percent of his nonprofits' revenue was paid to Connerly in salary or to his firm. By 2001, Connerly's salary and the fees charged by Connerly and Associates ate up 49 percent of the nonprofits' combined revenue. Most of the money paid to the firm was listed on tax forms as "speaking fees." In 2006, when Connerly took up a concrete goal in political activism-ending Michigan's affirmative-action policies-the cut of nonprofit revenue paid to him and his firm rose to 66 percent of total receipts, nearly \$1.6 million."*

They also revealed that Connerly was under investigation by the IRS, writing, "An IRS spokesman said that he could not comment on a case under investigation."

One big question Connerly refuses to answer is how much he has profited from his non-profits since mid-2006 since he hasn't filed any reports with the IRS for three years.