



Trendlines

A brief survey of ballot initiative activity around the country

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2010 Ballot Initiative Landscape

The 2010 off-year election ballots will be full with US Senate, Congressional, Gubernatorial, State legislative and ballot initiatives and referenda. If 2006 is any guide, the ballot measure landscape in 2010 will be crowded. 2006 was the third most active election cycle for ballot initiatives since the first measure was voted on in 1904. 204 statewide measures were voted on in 37 states. Seventy-nine of the 204 measures were from the people (citizen-petitioned) and 125 referred by government (legislative referenda).

While it's still very early in the process and it will remain fluid for some time, the 2010 ballot is starting to take shape as conservatives and progressives look to the direct democracy process to advance policy and try to shape the electoral debate. In what will be a fiercely contested campaign season, progressives will be building on recent electoral and ballot initiative successes and conservatives will be trying to rebuild after taking a thumping the last two election cycles.

Key Facts

In 2010 twenty four states will have the opportunity to vote on statewide ballot initiatives and referenda. (*Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming.*)

Eighteen elections for Governor will take place in ballot initiative states. (*Alaska-R, Arizona-R, Arkansas-D, California-Open, Colorado-D, Florida-R, Idaho-R, Illinois-D, Maine-Open, Massachusetts-D, Michigan-Open, Nebraska-R, Nevada-R, Ohio-D, Oklahoma-Open, Oregon-Open, South Dakota-Open, Wyoming-Open.*)

Seventeen US Senate elections will take place in ballot initiative states. (*Alaska-R, Arizona-R, Arkansas-D, California-D, Colorado-D, Florida-Open, Idaho-R, Illinois-D, Missouri-Open, Nevada-D, North Dakota-D, Ohio-Open, Oklahoma-R, Oregon-D, South Dakota-R, Utah-R, Washington-D.*)

Thirteen ballot initiative states will have elections for Governor and US Senate. (*Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Illinois, Nevada, Ohio, Oklahoma, Oregon, South Dakota.*)

Attacking Employee Free Choice

A national, coordinated, and corporate funded effort to undermine the *Employee Free Choice Act* called “Save Our Secret Ballot” has begun organizing at the state level to file ballot initiatives and advance referenda to amend the state constitutions in Arizona, Arkansas, Florida, Georgia, Missouri, Mississippi, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, and Utah.

To date, initiatives have been filed in Missouri and Arizona, though the Missouri Secretary of State has not yet certified the initiative title or summary which is required to begin circulation. Signatures are currently being gathered in Arizona.

Referenda to amend the state constitution with SOS language have been filed in Arizona, Georgia, Mississippi, South Carolina, and Utah.

The people behind “SOS Ballot” are a group of far-right activists, Washington DC power players and special interest lobbyists who are tied to corporate backed groups that have previously opposed overtime pay protection, expansion of health care for kids, increases in the minimum wage and other anti-worker proposals.

The Big Lie Exposed

The “Save Our Secret Ballot,” effort has one big problem - the *Employee Free Choice Act* does *not* take away the secret ballot in union elections. It simply gives workers, not their bosses, the choice in how they decide to form a union so they can earn better wages, health care, and a secure retirement.

Both majority sign-up and secret ballot elections have been in existence since 1935, but under current law, employers can disregard the results of majority sign-up and force employees to use secret ballot elections. In fact, a company's management can refuse to recognize a union even when 100 percent of its employees have signed authorization cards indicating that they want a union.

What the backers of the SOS ballot initiative effort don't want people to know is that workers don't have a choice right now in this employer-dominated union organizing process. They are harassed, intimidated, and fired for their support of a union, and the *Employee Free Choice Act* seeks to even the playing field for workers.

In addition to providing workers a free and fair path to form unions through majority sign-up, the commonsense legislation will also help employees secure a contract in a reasonable period of time, and toughen penalties against employers who violate the law.

The Truth about the Employee Free Choice Act

It gives workers a choice between secret ballots and majority sign-up. Once a majority of workers make it clear that they want a union, they should get a union: employers should not be allowed to hijack the process.

The *Employee Free Choice Act* also strengthens penalties against employers who break the law. Too many unscrupulous employers get away with breaking labor laws because the current penalties are too weak. The *Employee Free Choice Act* would increase penalties against employers who illegally fire or retaliate against pro-union workers during an organizing campaign or an effort to obtain a first contract.

And the bill allows employers or employees to request mediation if they're unable to negotiate a first contract. Under current law, anti-union employers often drag workers through lengthy negotiations by delaying bargaining sessions, withholding relevant information, and putting forth bogus proposals. Even though these tactics are illegal, there are no effective deterrents to prevent "surface bargaining." The *Employee Free Choice Act* will strengthen workers' ability to achieve a first contract within a reasonable period of time.

Strong Public Support for Employee Free Choice

[A public opinion survey released in January](#) showed that 78 percent of those polled want to see legislation that protects workers' freedom to form unions and bargain for an economy that works for everyone.

The survey of 1,007 adults across the country, conducted Dec. 4-10 for the AFL-CIO by Peter D. Hart Research Associates shows a striking level of support for the provisions of the *Employee Free Choice Act* and the freedom to form unions. This support crosses party and state lines, with 74 percent of those who identify as moderate or liberal Republicans in favor; conservative Republicans were the only group not expressing majority support. Support remains steady, even when those surveyed heard messages from both supporters and opponents of the bill.

Here are some key findings:

- 75 percent of those surveyed support recognizing a union when a majority of workers have signed up in support.
- 64 percent support strengthening penalties against companies who illegally intimidate or fire workers who are trying to form a union.

These survey results are consistent with a [survey](#) done last fall by American Rights at Work showing strong support for the candidates that support the *Employee Free Choice Act* and the freedom to form unions despite the massive spending on misleading advertising against pro-worker Congressional candidates in the 2008 elections.

TABOR Revenue Caps

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, BISC helped bring about the total failure of so-called *Taxpayer Bill of Rights* (TABOR) initiatives. The radical anti-government ideology was pushed and funded by New York City real estate investor [Howie Rich](#) and his secret shell groups. Rich originally pushed TABOR in 25 state legislatures,

all of which rejected the gimmick. He then tried to launch TABOR initiatives in nine states. After six TABORs were stripped from the ballot for signature fraud and other problems, voters in Maine, Nebraska, and Oregon firmly rejected the rest.

One might imagine that anti-government ideologues would have learned an expensive lesson after their 2006 and 2008 defeats, but they are poised to come back again in 2010.

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 are being proposed in several states' legislatures and as initiative measures this year that could make it to the ballot in 2010.

Florida – Sponsored by the National Federation of Independent Businesses (NFIB), a local TABOR measure continues to circulate for the 2010 ballot. A state TABOR may also appear in the legislature for consideration this session.

Missouri – While a state TABOR measure prevailed in committee recently it's less clear whether it will pass the state Senate.

Oklahoma – A state TABOR measure is currently moving through the state Senate Finance Committee.

South Carolina – TABOR was cited as a legislative and gubernatorial priority. There are four bills in-play. Also, there is a bill requiring 2/3 majority vote for tax increases. None of these measures have moved since January.

Virginia – A TABOR measure passed the House and moved to the state Senate. If approved, it would need to be considered and approved again next year by the legislature to be placed on the 2010 ballot.

Protecting Education

In Oklahoma a ballot measure is poised for the 2010 ballot that increases the state's investment in education. The Oklahoma Education Association turned in petitions bearing 234,446 voter signatures. Only 138,970 signatures were needed to get the proposal to a vote. A vote on the petition would take place in 2010, unless a special election is set.

The measure would raise per-student funding of schools to the regional average of \$8,300 a year, which would cost about \$850 million. Oklahoma now spends about \$6,900 a year per student. Oklahoma ranks 46th in per pupil expenditures and 42nd in teacher pay.

Anything but “open and clean”

In Alaska, a misleadingly named “Anti-Corruption Act” will appear on the 2010 primary ballot. Similar “Open and Clean Government” measures were put before voters in 2008. In South Dakota the initiative was defeated 65%-35%. The South Dakota state Attorney General had written an opinion stating that if approved, Measure Ten was likely to be challenged in court and could be declared in violation of the United States Constitution. If so, state taxpayers may have been required to pay attorney fees and costs.

In Colorado, where the initiative (Amendment 54) narrowly passed 51%-49%, that is exactly what has happened. A lawsuit was recently filed that argues Amendment 54 violates federal free speech and due process rights. The unspoken goal of the initiative was to prevent public labor unions from participating in and contributing to elections and campaigns. The constitutional amendment will prohibit political contributions by persons and organizations with certain state or local government contracts. It also prohibits political contributions by labor unions that have collective bargaining agreements with state or local governments.

Since the constitutional amendment was so broadly written, officers and board members of non-profits that receive government funds are also restricted from campaign and political contributions. In addition, both immediate family members of union employees and non-profit officers’ and board members’ are restricted from making campaign contributions. The amendment prevents a person from volunteering for a campaign or donating a few dollars to a political candidate just because their mother-in-law is a government contractor; or their nephew belongs to a public employee union; or their daughter sits on a non-profit board.

As was reported by *The Colorado Independent*, Colorado at Its Best, the nonprofit that bankrolled the campaign to pass Amendment 54 has hidden their funding sources while they claim to seek transparency and full disclosure in politics. The supporters of the Colorado amendment were not required under law to release the names of its contributors, meaning that the “clean” campaign has been [funded primarily from donors who are anonymous](#).

The 2010 Alaska initiative like the efforts in Colorado and South Dakota have built in loopholes. While it does apply to unions and non-profits, it would not apply to most contributions by large and out-of-state corporations. Oil companies, drug companies and defense contractors would not be covered by this amendment and it is silent about corporate gifts to elected officials.

There are many unanswered questions with this initiative. For example, a social service group could be banned from receiving a government grant because they spoke to public officials about their work. Under the Alaska initiative this would be considered lobbying and it would disqualify the social services group from receiving any government grant. The initiative would also prohibit public safety officials like firefighters and police officers from providing input on legislation and budget matters.

Reproductive Freedom

This issue continues to be at the forefront of the right-wing agenda despite years of losses at the ballot box on anti-choice ballot measures. The 2008 election was no different; voters in three states - California, Colorado, and South Dakota protected reproductive freedom and a women's right to choose by rejecting ballot initiatives. Despite significant attempts to qualify anti-choice initiatives in Georgia, Montana, Missouri, and Oregon, efforts to make the ballot failed in these states.

Measures to restrict reproductive freedom are traditionally very controversial but are often an unsuccessful strategy for anti-choice forces. Voters have rejected ballot initiative attempts to weaken a woman's right to choose her health care decisions nearly 90 percent of the time over the past two decades. Since 1972, 33 initiatives concerning women's reproductive health have appeared on ballots and only three anti-choice initiatives have passed.

In Colorado, right-wing activists put forward a "*Definition of Person*" initiative (Amendment 48) in 2008 that divided conservatives. Established anti-choice groups such as the National Right to Life Committee and Focus on the Family did not actively support the initiative because of strategic differences. They believed that if the initiative passed, it would be challenged in the courts and that it could provide a losing test case in their bid to overturn *Roe v. Wade*.

This rewrite of the state constitution had sought to overturn *Roe v. Wade* by redefining "personhood" as the moment of fertilization, giving legal rights to embryos. The initiative was rejected strongly by 73% of voters.

Despite the drubbing the "*personhood*" initiative took at the ballot box, an organization called Personhood USA has said they will try to advance initiatives in others states. Recently, constitutional amendments have been introduced by legislators in Alabama, Maryland, Montana, North Dakota and South Carolina. Oregon has begun a personhood amendment petition drive, and Mississippi's personhood amendment petition drive is expected to launch within weeks.

Outlawing Equal Opportunity

Ward Connerly's campaign to outlaw equal opportunity is headed to the 2010 ballot despite big losses in 2008. Connerly lost in four of the five states in which he attempted to pass his divisive initiatives and re-write state constitutions. 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 only Nebraska.

Connerly has filed in Missouri for the 2010 ballot and has been approved to circulate signature petitions there. In 2008, Connerly faced charges of using deceptive tactics 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 police because he was [wanted in three states for voter 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.

A Full Ballot

California and Oregon typically see a lot of ballot initiative activity and 2010 will be no different.

In California, several constitutional amendments have been referred for the 2010 primary ballot and a number of initiatives have been proposed for the fall ballot where there will be both an election for US Senate and an open race for Governor.

As part of the recently enacted budget deal referred two constitutional amendments for voter approval in the state's June 2010 primary- an open primary ballot initiative and a measure that puts restrictions on legislative pay hikes, freezing lawmakers' pay when the state runs a deficit.

In an open primary there would no longer be party ballots. Instead, Democrats and Republicans would run in the same primary, with the top two vote getters facing off in the general election. The proposal would not apply to gubernatorial races.

In Oregon, the ballot initiative process has been largely dominated by gimmicky and sometimes dangerous ballot initiatives. These initiatives have been sponsored primarily by one particular noted initiative fraudster, Bill Sizemore, who makes his living off of direct democracy.

In 2000, Sizemore was the subject of a racketeering lawsuit against two of his organizations: Oregon Taxpayer's United and the OTU Education Foundation. The jury found Sizemore's organizations guilty of racketeering, and the organizations were fined approximately \$2.5 million. Sizemore refused to pay the fines and attempted to avoid the liability by changing the name of his organizations to Oregon Taxpayers Association and carrying on with business as usual. Without a trial, Sizemore was found personally liable for his organization's civil racketeering liability, and a judge shut down his education foundation. Nearly a million dollars were added to the fine as a result of Sizemore's resistance to earlier court orders/decisions.

Sizemore is able to go about his ballot business by having a benefactor. Funding for many of Sizemore's initiative efforts comes from Loren Parks, a sex therapist living in Nevada. After spending more than \$1.6 million on Oregon's 2006 elections and \$600,000 on Oregon 2007 ballot measures, Parks already has spent at least \$800,000 for initiatives on the 2008 ballot. According to Democracy Reform Oregon, over the years, Sizemore and his allies have spent \$3 million dollars to fund his 12 ballot measures, while his opponents have spent over \$25 million to defeat them.

In 2008, Sizemore backed five initiatives on the ballot, three of which are repeats of similar measures he has tried to pass in the past. All five Sizemore ballot initiatives were rejected by voters in 2008. Sizemore has filed thirteen ballot initiatives for 2010 but it's too early to tell how many will actually make the ballot. Oregon will also have both an election for US Senate and an open race for Governor.