

DIRECT DEMOCRACY IN OKLAHOMA

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Americans are frustrated with their government. The increased use of direct democracy is evidence of this frustration. Since our elected representatives cannot get the job done, voters reason, we must do it ourselves! Oklahomans share this frustration with government's inability to solve problems and, like voters in 24 other states, they can utilize instruments of direct democracy to take action themselves. What follows is a brief introduction to direct democracy in Oklahoma.

Direct democracy refers to three processes through which voters can make policy: the initiative; the referendum, and the recall. Through the initiative, voters can write statutes and constitutional amendments which appear on the ballot when enough signatures have been collected on petitions. The referendum allows voters the opportunity to place laws previously approved by legislative bodies on the ballot. Like the initiative, citizens must collect enough signatures on petitions to get the referendum on the ballot. The recall allows voters the opportunity to remove an elected official from office if citizens can collect enough signatures on petitions.

Since Oklahoma was admitted to statehood during the Progressive era, it is not surprising that the Oklahoma constitution includes the Progressive vision of direct democracy. The Progressive ideology held that government at the end of the 19th century was corrupt and being run for the benefit of special interests. Direct democracy was an attempt to replace corrupt government with the will of the people. The people would set the political agenda and make decisions via the ballot box. Government would no longer be run by "the few."

The referendum and initiative processes are outlined in Article V of the Oklahoma Constitution, juxtaposed with the description of the structure and function of the legislative department. Oklahomans do not have the ability to recall state officials, although residents of several cities and towns can recall local officials. To place a statutory initiative on the ballot, proponents must collect signatures from enough registered voters to equal five percent of the votes cast in the previous gubernatorial election. More than 995,000 voters cast ballots in the 1994 gubernatorial election; therefore, almost 50,000 valid signatures must be collected to qualify a statutory initiative for the ballot.

An initiative to amend the state constitution requires signatures from 15 percent of the voters (almost 150,000 signatures). The referendum process stipulates that five percent of the voters or an absolute majority of the legislature may require that a bill passed by the legislature be submitted to the voters for approval. Oklahoma's signature requirements are moderate compared to other states, resulting in about nine ballot issues, called State Questions, per election. State questions are worded in a manner that the "yes" vote changes the status quo.

Examples of State Questions which have appeared on the Oklahoma ballot in recent elections may help illustrate the differences between initiatives and referenda. In September, 1990, Oklahoma voters approved State Question 632, a constitutional amendment limiting the terms of state legislators. State Question 632 was a constitutional initiative. Most issues which appear on the Oklahoma ballot are constitutional initiatives because, as amendments to the constitution, they carry more weight than statutes. Statutory initiatives, if approved by voters, can be amended by legislators at a later date. Constitutional amendments can only be changed by further amendment.

An initiative, State Question 640, approved by voters in March of 1992, provided for a referendum on all revenue bills not approved by a supermajority of the state legislature. State Question 639, a confusing ballot issue rejected by voters in a special election in October, 1991, is an example of a popular referendum. The history of this question can be traced to April, 1990, when the legislature passed House Bill (HB) 1017, a package of education reforms and tax increases to raise revenue for those reforms. While the bill was praised as a landmark effort to improve the education of Oklahoma's public school students, it also was criticized as being too long on tax increases and too short on actual reforms. After the bill was signed by the governor, two taxpayer advocates began circulating petitions to put the question of repealing HB 1017 on the ballot. After collecting enough signatures, the question was placed on the ballot, but voters were confused by the wording of the question. A "yes" vote indicated that the voter wanted HB 1017 repealed, while a "no" indicated support for the legislation. The referendum failed.

Two related trends have become evident in the recent history of direct democracy in the United States and in Oklahoma. Combined, these trends raise questions about the democratic nature of direct democracy. The first trend involves the professionalization of direct democracy. No longer is it possible for a small group of volunteers concerned about a problem to circulate petitions and have the issue decided by voters. Volunteer petitioners have been replaced by petition management firms. These firms help draft the petition and get pre-approval by the appropriate state official (usually the attorney general or secretary of state). They then develop a strategy for collecting the appropriate number of signatures. The strategy has increasingly included the hiring of persons paid to collect the large number of signatures. Usually the circulator receives a certain amount per signature. In the effort to get a congressional term limit initiative on the Oklahoma ballot in 1994 (State Question 662), some petition circulators were paid one dollar or more per signature. Fraud is a potential problem in paying circulators per signature. In the effort to qualify State Question 662, a circulator from

Lawton falsified the signatures of a number of Oklahomans, including the chief justice of the state supreme court, a seven-year-old boy, and a dead man. She was convicted.

The second trend involves the amount of money required to conduct an initiative campaign. A number of observers have noted that direct democracy had, until the late 1980s, worked to enlarge the rights of citizens and protect people and the environment from the ravages of capitalism. By the 1990s, most initiatives involved reducing the size of government by lessening the tax burden and decreasing government regulation. These initiatives have been funded largely by wealthy individuals and ideologically-conservative foundations. Very few initiatives are successful if the organizations promoting them receive only small donations. Money has become the significant factor in qualifying an initiative for the ballot. Observers of direct democracy conclude, almost to consensus, that “anyone willing to put up the funds can buy a place on the ballot” (Lowenstein and Stern 1989, 200).

While money is important in getting an issue on the ballot, the evidence is mixed on the role of money in the approval of an initiative. Effective use of the media can be just as important as money in determining the success or failure of an initiative campaign (see Cronin, 1989, chapter 5). In Oklahoma, many initiative proponents, especially those that seek to constrain the government, can rely on both money and media from a single source: Edward L. Gaylord, owner of the Oklahoma Publishing Company (OPUBCO), the parent company of *The Daily Oklahoman*. Gaylord regularly contributes to the committees organized to support or oppose various initiatives. Editorially, *The Daily Oklahoman* strongly encourages voters to cast their ballots for or against the proposals. These editorials regularly appear on the front page. In 1992, the paper endorsed tax-limiting State Question 640 so strongly that the issue was the subject of a color cartoon on the paper’s front page. Research has found a connection between the circulation of *The Daily Oklahoman* and support for initiatives which “constrain the legislature” (Rausch, 1994).

The Progressives envisioned direct democracy as a way to block the corrupting influence of special interests on the government. Who better to act on the best behalf of the people than “the people?” Today, students of direct democracy are concerned about the decreasing role played by the people in the process. Many voters do not take the opportunity to vote on ballot issues either by not voting or by “rolling off,” the process of skipping the issues on the ballot. The role of money and the ability to “buy” a spot on the ballot also concerns observers. Of course, the large sums of money involved in initiative and referendum campaigns can be justified by the overwhelming task of circulating petitions. Citizens should reflect on the democratic nature of direct democracy in its current form.

References

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