

Attacks on direct democracy in the states

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SUMMARY

Citizen-initiated ballot measures are important avenues for citizens to directly propose and pass laws when politicians won't. But in the last five years, 11 states have taken aim at this direct democracy process. Lawmakers and dark money groups in these states are trying to make it harder to pass ballot measures, including proposing bills that would require a supermajority (60% of voters to approve a measure instead of a simple majority (50% plus one). While none of these proposals have become law yet, this report further examines this concerning trend toward restricting the ballot measures process and direct democracy broadly.

INTRODUCTION

In a political system where big-moneyed interests have a greater [influence](#) on politicians' decisions than the people, direct voter involvement in the lawmaking process is a welcome reprieve. One way this happens is through citizen-initiated ballot measures. This process allows ordinary voters to propose, change, or repeal a law by posing the question directly to other voters on their ballot.

The rules and processes vary from state to state and city to city, but ballot initiatives generally start when a group of citizens come together around an issue of law or policy and decide to take matters into their own hands. In many cases, this happens when legislators drag their feet on an issue with popular support. After navigating a number of legal and procedural hoops to vet their proposed law, citizens must then collect a designated number of signatures that demonstrate support from other voters in the community. If all requirements are met, their proposed law becomes a question on the ballot. Voters get to decide on whether or not it's implemented. That's as direct as democracy gets.

In addition to the standard citizen-initiated ballot initiative, some states allow citizens to initiate measures to recall a public official or to veto legislation recently passed by the legislature (veto referendum). In all, [twenty-six states](#) allow ballot initiatives or veto referendums, and [nineteen](#) states allow state-wide recall. Additionally, [every state but Delaware](#) requires the public to vote on constitutional amendments passed by the legislature before they can become law. These questions on the ballot represent critical opportunities for public engagement and direct input.

This kind of voter empowerment is needed now more than ever. In 2020, the Ballot Initiative Strategy Center [polled](#) a cross-section of red, blue and purple states, finding that 83% of voters agreed ballot measures are a good way to make their voices heard and bring about change. Overall, 64% of respondents agreed that voting on ballot initiatives and constitutional amendments was more impactful than voting for candidates in creating positive change.

Despite its key role in our democratic system, voter empowerment through ballot measures is under attack across the country. One of the most common ways states try to limit the people's power is by raising the required number of votes to pass ballot measures. This is called implementing a [supermajority requirement](#). For example, some proposed laws would require two-thirds of voters to approve an initiative. Others would require a certain number of registered voters to turn out for the election in order to pass the ballot measure in the first place. Twelve states¹ have broad supermajority requirements, and several more have [subject-specific ones](#).

This report takes a look at the states where bills have been proposed to limit direct democracy by enacting supermajority requirements, or where similar efforts have appeared on the ballot. Voters across the country are accustomed to a system where they have the authority to approve amendments to their state's law, and they deserve to keep it that way.

METHODOLOGY

For this report, we compiled data from multiple legislative databases² to track attempts at instituting supermajority requirements at the ballot box.³ These threats come in the form of raising the voting requirement for passage of ballot measures from a single simple majority (50% plus one) vote to a supermajority.

For the purpose of this project, a supermajority vote requirement is one where a measure must pass by standards that exceed a one-time simple majority in order to be enacted. This encompasses a broad swath of policies, including simple two-thirds majority requirements, as well as special requirements that a specific kind of proposal pass in a majority of counties – not merely with majority of overall votes on the measure itself.

FINDINGS

Since 2017, politicians in at least 11 states have proposed at least sixty-four bills that would impose supermajority requirements for ballot measures. Out of all sixty-four bills proposed nationwide,

¹ This statistic is sourced through a combination of [NCSL](#) and [Ballotpedia](#) resources.

² We relied on [Ballotpedia tracking](#) and queries performed on Quorum, a legislative tracking software, to pull together our data. The full spreadsheet of our findings can be accessed [here](#).

³ Some legislatures also face supermajority requirements to refer measures, but this is outside the scope of this project.

four passed⁴ and were put before voters as a ballot question. Voters have already rejected two of these questions, in North Dakota in 2019 and South Dakota in 2018. The other two are on the ballot this year in Arkansas and South Dakota (again).

In these 11 states, three kinds of supermajority requirements were especially common: a 55% voter approval requirement for passage, a 60% voter approval requirement for passage, and a two-thirds voter approval requirement for passage. The 60% requirement showed up in the most states (eight), while the two-thirds requirement showed up in the most bills (29).

Missouri proposed the most bills attempting to make it harder for voters to pass ballot measures, accounting for almost half of the proposals.

Overall, none of the bills we identified have passed yet. However, these kinds of measures have become law in the not-so-distant past.⁵ And with at least two supermajority measures on the ballot this year, there is reason to be vigilant.

Americans of all political stripes should carefully scrutinize any attempt by politicians or special interests to limit direct democracy by rewriting the rules of the game.

REPRESENTUS INVOLVEMENT

Of the 11 states identified in this report, RepresentUs has supported ballot measures that limit politician-power in four: [Missouri](#), [Arkansas](#), [North Dakota](#), and [South Dakota](#). In many cases, including these four states, attacks on the ballot measure process came the very next year after good government reforms were proposed by ballot measure.

⁴ Colorado SB 17-152 is excluded from this list because it is an implementation bill for an initiative passed in 2016.

⁵[Colorado](#) (2016), [Florida](#) (2006)

STATES THAT HAVE PROPOSED SUPERMAJORITY REQUIREMENTS

All of these states except Florida have a simple majority requirement (50%+1) to pass ballot measures at the time of publication. The full spreadsheet of our findings can be accessed in the appendix [here](#).

ARKANSAS

Three supermajority bills have moved through the Arkansas legislature since 2017. All aimed to impose 60% approval requirements, primarily for constitutional amendments. Only one, [HJR 1005](#), passed. **Voters will decide whether to approve or deny it in November 2022.**

ARIZONA

Arizona had three pieces of supermajority legislation move through the legislature, two in 2021 and one in 2022.

[HCR2015](#), introduced in 2022, aims to require 60% of voters to approve the passage of initiatives and veto referendums. Currently, only a simple majority is required. Arizona's legislature is still technically in session as of the date of publication, but the bill has seen [no movement since February](#).

In 2021, [HCR2016](#) aimed to create a 55% passage rule for initiatives and referendums, whereas [SCR 1024](#) targeted ballot initiatives aiming to increase tax revenue with a two-thirds passage rule. Both failed.

FLORIDA

Since 2017, politicians in Florida have proposed 10 different supermajority threshold bills. All but two recommend two-thirds majority requirements for passage of a variety of different kinds of measures, and most focus on constitutional amendments. Florida is one of few states in the union to already have a general supermajority threshold, where constitutional amendments must pass with 60% support.

Only one measure qualified for the ballot during the 2017-2022 period. [Florida Amendment 4](#), a citizen initiative, would have required voter-approved constitutional amendments to be approved by the legislature or passed twice. 52.47% of voters opposed the measure, so it failed.

MAINE

In 2019, lawmakers proposed [LD-1255](#), a constitutional amendment which would institute a 60% supermajority requirement for ballot measures to pass. This was the only attempt to

further restrict the ballot measure process during the five-year period we studied, and it failed that same year.

MISSOURI

Since 2017, Missouri has seen 29 legislative proposals to institute a supermajority amendment since 2017 – the most of any state.

Beyond the 60% supermajority proposal, other proposed bills would require a certain percentage of registered voters turn out for a measure to pass, or that a two-thirds majority vote must be reached instead of a simple majority.

At least eighteen of these supermajority bills include additional language creating extensive standards for the signature collection process needed to qualify an initiative to the ballot in the first place.

None of these bills passed, but earlier this year [HJR 79](#), which attempted to implement a two-thirds majority approval rule for constitutional amendment initiatives that increase taxes or fees or require major appropriations, came so close that a [filibuster](#) on the Senate floor became necessary to block its passage.

NORTH DAKOTA

North Dakota faced five legislative attempts to institute supermajority requirements since 2017, all of them introduced in 2019 or 2021. Two of these attempts aimed to institute a 60% approval requirement, two sought a 55% approval requirement, and one would have required initiated constitutional amendments to pass on the ballot twice if not approved by the legislature.

In 2019, [SCR 4001](#) qualified for the ballot, but it only garnered support from [38.39%](#) of voters during the 2020 general election. Thus, North Dakota avoided adoption of a double passage requirement.

In May of 2022, the Secretary of State's office [rejected](#) a citizen initiative to increase the passage requirement for constitutional amendments to 60% because the sponsors had collected insufficient signatures for ballot qualification. This effort was led by [Protect North Dakota's Constitution](#), a dark money group with ties to major lobbying, banking and local business interests⁶.

NEVADA

Nevada [AJR 8*](#), re-introduced in 2017, would have instituted a two-thirds majority approval

⁶ See the [Jamestown Sun](#), [NDxPlains](#), accessed June 1, 2022.

requirement for ballot measures that increase taxes or revenue. In the Nevada Assembly, bills of this kind must pass twice to be enacted. The bill [passed once in 2015](#), but it died during the 2017 session.

OHIO

Ohio has seen two bills attempt to institute 60% supermajority rules since 2017. Both targeted initiatives of varying kinds, and neither passed

OKLAHOMA

Five bills attempting to implement supermajority rules have been introduced in the Oklahoma Legislature since 2017. All of these were introduced during 2021 and 2022, and most of them concerned initiatives and constitutional amendments, attempting to institute various 55% and 60% passage rules.

SOUTH DAKOTA

South Dakota had one supermajority bill introduced in 2017, 2018, and 2019 each. Two of these proposed 60% rules and one proposed 55%.

One of the 60% proposals ([HJR 5003](#)), which targets ballot measures that make major appropriations, will be on the ballot during the June 7, 2022 election. If passed, any ballot measure that increases taxes or fees to the tune of \$10 million or more in the first five fiscal years would need to be approved by 60% of voters on Election Day. A separate 55% measure ([SJR1](#)) also made it to the ballot in 2018, but was rejected by voters ([54% opposed](#)).

WASHINGTON

In 2019, a bill ([HJR 4202](#)) was introduced in Washington to require that an initiative or veto referendum pass in a majority of counties for enactment, not just with a majority of approval statewide. This bill did not gain much traction in the legislature, but was reintroduced anyway in 2020 and died quickly in the same session.