



League of Women Voters of Maine
Consensus Question Packet for Citizens'
Initiatives and People's Veto Referenda
Study

Includes Discussion Topics &
Consensus Questions

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1. Overview of the Consensus Question Packet

A Consensus Study process is a unique and defining feature of the League of Women Voters, requiring openness, curiosity, and patience to study an issue and then work as a group to find agreement when responding to the consensus questions. Group members come to a consensus based on the “overall sense of the group and a judgement about whether member understanding and agreement have been achieved” (quoting League of Women Voters of Maine [\[LWVME 2018\]](#), which describes the study process in detail).

This Consensus Question Packet is an integral part of the LWVME’s latest study on Maine’s constitutionally authorized and legislatively prescribed tools for direct participation by citizens in the legislative process using Citizens’ Initiatives (CIs) and People’s Veto Referenda (PVRs). CIs and PVRs are often referred to as tools of “participatory democracy” and/or “direct democracy.” Simply defined,

- Citizens’ Initiatives (CIs) permit citizens to introduce new legislation via a petition process;
- People’s Veto Referenda (PVRs) permit citizens to repeal recently passed legislation via a petition process.

CIs and PVRs that obtain enough petition signatures are presented to voters as ballot questions and are enacted by the Legislature if a majority of voters approve the proposed legislation (CI) or request for repeal (PVR).

The outcome of this study will be a policy position that will reflect the collated and analyzed views of at-large members and local unit study groups. The new position, written by the LWVME Board, will reflect the views of as broad a portion of the membership as possible. The position will guide future League advocacy on any proposed changes to Maine’s Constitution or statutes governing CIs and PVRs.

The Study Committee has identified seven discussion topics for the consensus study. These topics encompass the most frequently debated issues regarding Maine’s tools of participatory democracy and how they are used:

1. Principles for evaluating Maine’s tools for participatory democracy
2. Application procedures for introducing CI and PVR
3. Signature requirements for CI/PVR petitions
4. Voter input and information
5. Campaign finance for ballot questions
6. Post-election legislative action on CI/PVR
7. Future support for tools of participatory democracy

The topics outlined above have been translated into 11 specific questions for the consensus study. Most of the Consensus Questions (CQs) ask members to consider how they feel about Maine’s current rules compared with different options proposed by the Maine State Legislature, used by other states, or discussed in the general literature on CIs/PVRs. Members are asked to review the discussion materials for each of the 11 questions and the more detailed material presented in the Study Report before responding to the consensus questions.

To ensure that study groups have a good understanding of the philosophical debates underpinning the general topic of participatory democracy, the Study Committee recommends that a member of each study group look at one or more of the following references as general background. All are available online at the hyperlinks below.

- **Study Report:**
Sections 1 & 2 describe the origins of this study and the historical roots of the initiative and referendum process in the U.S. and Maine. Section 3 describes the history of CI/PVR use in Maine and the evolution of legislation shaping the process. We also recommend frequent reference to the Glossary included at the end of the Study Report.
- [Ballot Initiative Strategy Center](#)
(n.d.) [History of the Ballot Initiative \(2 minute video\)](#).
The video highlights the Progressive and Populist origins of CIs/PVRs and how they have been used by different political constituencies over time.
(n.d.) [BISC: The first 20 years](#)
Provides a timeline of what the Center has done since its creation in 1998 as a project of People for the American Way, with the goal of creating a national, progressive ballot measure strategy.
- [Johnson, Nick](#). (2018). *Seizing the Initiative: A Short History of Direct Democracy in America*. Given the sharp increase in the use of CI nationwide since 2016, Johnson reviews the Progressive and Populist roots of these tools of participatory democracy and how their use has evolved since the early 1900s, ending with some thoughts on where it may go in the future (5 pages).
- [Newkirk, Vann R. II](#). (2018). *American Voters Are Turning to Direct Democracy*. *The Atlantic*. Explores the relationship between voter dissatisfaction with elected representatives and the spike in the use of CI since 2016; also reviews types of legislation proposed through the initiative process across the U.S. and the success of those efforts (4 pages).
- [Posik, Jacob, and Sigaud, Liam](#). (2018). *The will of the people?* Portland, Maine: Maine Heritage Policy Center.
A study of Maine's CI/PVR process calling for a range of reforms that would make it more difficult to get initiatives on the ballot. Many of the report's proposed reforms were considered by the 129th Legislature. The report includes a short description of the CI/PVR process and an analysis of ballot question campaign finance data showing large shares of financing originating outside the state (30 pages).
- [Tipping, Mike](#). (2016). *Citizen Initiatives offer Maine voters an unprecedented opportunity*. *Portland Press Herald*.
Offers some history on the evolution of Maine's CI/PVR process from a tool of democracy with bipartisan support in the early 2000s to one that is now generally viewed through partisan lenses with one party wanting to tighten the rules for getting CI on the ballot and the other supporting the status quo (2 pages).
- [WERU-FM podcast](#). (2019). *Citizen Initiatives: The Devil's in the Details*.
A one-hour discussion moderated by Ann Luther with Michael Franz of Bowdoin College and Joshua Dyck of University of Massachusetts at Lowell as guest speakers (one hour). Covers the following topics: historical origins of the initiative provisions, how initiatives actually work in Maine, contemporary experience with them, their effect on politics and elections, the tension between direct and representative democracy, and proposals for reform.

2. Principles for Evaluating Maine’s Tools for Participatory Democracy

CQ 1. What are the most important principles for ensuring a process that honors the initial intent of the constitutional amendment authorizing citizens’ initiatives and people’s veto referenda, addresses some of the unintended consequences, and is consistent with other League principles and positions?

Relevant Reading:

- Study Report and Glossary
General background information in Sections 2 and 3 are relevant to identifying principles. Section 6 on applicant and voter information is also relevant given the League’s traditional focus on transparency and voter information as important democratic principles.
- [LWVME “Impact on Issues”](#) (2019) especially League Principles, p. 22).
- League of Women Voters of the US [\[LWVUS\] “Impact on Issues,”](#) (2019), especially League Principles, p. 6.

Discussion: The 1907 constitutional resolution approved by 69% of voters amended the Maine Constitution to reserve for the people themselves...

...the power to propose laws and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act, bill, resolve or resolution passed by the joint action of both branches of the legislature. (Maine State Legislature, Acts and Resolves..., 1907, pp. 1476-77)

In Maine and elsewhere, the process is generally considered a supplement to representative government rather than a substitute for it. As a result, alarm bells ring when states begin to experience unintended consequences such as rapid increases in the number of CIs/PVRs on the ballot, as has happened in CA, OR, and WA, or sharp increases in spending, particularly out-of-state funding and personnel supporting or opposing a particular CI/PVR. Legislators often respond with attempts to “tighten the rules.” This leads to a difficult balancing act between (1) moderating the rapid rise in the number of and spending on CIs/PVRs and (2) protecting the average citizen’s ability to propose and/or reject laws. To make decisions about the appropriateness of proposals for change, it is helpful to have a set of underlying principles.

Check the **3** boxes below for what your group considers the most important principles in the list, given what you have learned from the Study Report. Feel free to rank them in order of importance if the group can easily come to consensus on a ranking. Also feel free to add other principles in the comments box.

Group's Choices	Principles
	<p>1. Information for CI/PVR applicants should be comprehensive, accessible, and easy to understand. Information about the process for citizens wanting to initiate a CI/PVR should be easy to access and easy to understand. Rules and regulations about filing an application should be available in a single location, written in simple language, and describe the full range of an applicants' rights and responsibilities, including campaign finance reporting requirements.</p>
	<p>2. Information on petitions and ballots should be simple, clear, adequate and of appropriate length. Documents should clearly communicate the potential cost and impact of the CI/PVR. Time available for reading a petition or ballot should be considered when meeting objectives of simplicity and clarity.</p>
	<p>3. Detailed voter information should be widely available from official government sources. Government should use a variety of media formats and outlets to provide voters with detailed information about CI/PVR objectives and impacts, going beyond information on petitions and ballots.</p>
	<p>4. Government should provide voters with accurate, easy-to-access, and timely information about CI/PVR financing. Given the US Supreme Court <i>Citizen's United</i> decision and others, it is unlikely that limits can be placed on CI/PVR contributions and expenditures. That reality puts a greater burden on the government to provide adequate pre-election information on funding sources and levels.</p>
	<p>5. New legislation affecting CIs/PVRs should promote transparency and fairness and be independent of short-term partisan goals. Some proposals for changes in the CI/PVR process have been partisan attempts to make the process more difficult following a run of successful CIs or PVRs supported by an opposition party. Others have been in response to perceived opportunities for fraud, particularly in the signature collection phase.</p>
	<p>6. LWVME CI/PVR positions should be aligned with other League positions. LWVME and LWVUS already have a number of positions regarding campaign finance and voter information – both of which are relevant to CI/PVR issues.</p>

Comments/Clarifications:

If your group arrives at a consensus that some of these principles need modification or that there are other principles that belong here, please note your suggestions in the comments box.

3. The CI Application Process (CQ 2, 3, 4)

General Issue for this section. The three consensus questions in this section deal with the CI/PVR application process. The steps in the process include: application; approval of application and petition; gathering, certifying and validating petition signatures; public information and advocacy campaigns; election results; and post-election enactment and implementation of voter-approved CI/PVR. CQ 2 looks at support offered to applicants for drafting legislation. CQ 3 and CQ 4 discuss restrictions on the number or type of subjects than can be addressed by a single CI or PVR.

CQ 2. Should government agencies and/or legislative services offer legal assistance for drafting proposed citizen-initiated legislation before an applicant’s petition is finalized, while allowing the applicant to retain their right to final approval of the proposed legislation?

Yes No No consensus

Comments/Clarifications:

Relevant Reading:

- Study Report: Sections 4.A-4.B, 5, and Appendix 4.1; Glossary.
Sections 4.A-4.B describe initial steps in the CI application and legislation drafting process. Section 5 addresses PVR. Appendix 4.1 is a cross-state comparison table of drafting assistance offered to applicants.
- [City Club of Portland](#) [OR] (2008). Making the Initiative Work for Oregon.
This is a study of Oregon’s CI/PVR experience, but with many findings and recommendations of relevance to other states. Pages 18-20 deal directly with the issue of drafting challenges facing CI applicants, consequences of poor drafting, and proposed solutions for Oregon.
- [Fish, Scott](#). (2018, Sep 3). Maine’s ballot question approval process: Fix it. *Piscataquis Observer*.
An opinion piece by a former communications staffer for Maine Senate and House Republican caucuses calling for the Secretary of State to be given authority to determine the constitutionality of proposed ballot questions as part of the first approval process.
- [National Conference of State Legislatures](#) (NCSL, 2002, Section 4, pp 22-26).
The overall conclusion of this task force report which studied CI/PVR throughout the U.S. was that states should be discouraged from adopting an initiative and referendum process. However, the report contains a thorough discussion of problems and recommendations for correcting them in the states that do allow citizen-initiated legislation. Section 4 recommends reviews of draft CI legislation and assistance to applicants with information on how a few states have addressed the problems.

General Discussion. In Maine, the CI/PVR process is managed by the Secretary of State (SoS) Bureau of Corporations, Elections and Commissions, with the Maine Commission on Government Ethics and Election Practices (the Ethics Commission) responsible for monitoring the campaign finance aspects. Drafting of PVRs is relatively simple, requiring only a copy of the legislation that applicants wish to

repeal and clarification about whether the repeal concerns only parts or all of the legislation. Drafting proposed legislation for a CI is much more difficult; applicants must start from scratch and develop a legally sound piece of legislation.

The quality of drafted legislation proposed by CI applicants is often criticized in Maine as well as in other states for being ambiguous, incomplete, or in conflict with state constitutions or statutes. In addition, an argument frequently used for retaining legislative rights to amend or repeal CIs (see CQ 9) is the poor quality of the draft legislation and/or the inadequate treatment of funding mechanisms. These critiques lead to the question of what, if anything, should be done to reduce the risk of downstream legal and implementation challenges, while preserving the applicant's right to final approval or rejection of suggestions for modifications.

Maine: As discussed in Section 4.B of the Study Report, those filing CI applications with the Maine SoS receive little, if any, substantive guidance on drafting their proposed legislation. The SoS refers the proposed legislation to the Office of Revisor of Statutes (ORS), where it is reviewed primarily for formatting, grammar, and alignment with the correct sections of existing statutes. The specific content or the possible intent/consequences of a proposed law is not the concern of the ORS. If necessary, ORS edits or redrafts the legislation and then sends its advisory redraft to the SoS, who communicates with the applicant. CI applicants, unlike legislators drafting legislation, do not have direct access to ORS or to staff of the legislative services that guide legislators in the drafting of their legislation.¹ [L.D. 1669](#) (129th Legislature) recognized the problem and proposed that the Maine Constitution be amended to require pre-petition review of a CI application, but this did not pass.

Other States. No state provides pre-application assistance with drafting proposed legislation. Initiative proponents in no state have the kind of drafting assistance provided to legislators. However, six states provide for some direct contact between initiative proponents and some drafting resources available to legislatures before the petitions are issued. One state requires public hearings before the wording of the proposed legislation is finalized.

¹ The [Maine Legislators' Handbook](#) for the 129th Legislature notes: "...in most cases, the legislator turns to a legislative staff office for bill drafting assistance. All legislation, regardless of where it is initially drafted, is processed and prepared for introduction by nonpartisan legislative staff in accordance with standards established by the Revisor of Statutes" (Maine State Legislature, Office of Policy and Legal Analysis, 2018, p. 3). The Revisor's Office, Office of Policy and Legal Analysis, and Office of Fiscal and Program Review staff are all available to provide research and drafting assistance and prepare the bill in proper technical form.

Arguments FOR offering legal drafting assistance to CI applicants	Arguments AGAINST offering legal drafting assistance to CI applicants
<ul style="list-style-type: none"> • National Conference of State Legislatures’ 2002 study on the Initiative and Referendum process across the U.S. recommended that states require a review of proposed initiative language by either the legislature or a state agency (NCSL, 2002, Recommendation 4.1). • Providing this assistance could help ensure that small, local organizations with limited funding for legal counsel could draft acceptable legislation. • All laws and regulations are subject to judicial review, even when the most sophisticated drafting resources are used. • Providing applicants with access to assistance similar to that provided to the legislature is one way to reduce the risk of legal or political challenges. 	<ul style="list-style-type: none"> • Proponents can already hold public forums, consult with attorneys, and use any other method they deem appropriate to draft legislation. • Although these efforts may add costs, drafting legislation that can withstand legal and constitutional challenges is a burden the proponent assumes when seeking to change the laws of the state. • Providing government support to initiative proponents could increase the cost of government by requiring the hiring of additional staff and deploying other resources. • Providing more government assistance could lead to a flood of new CIs.

CQ 3. Should citizens’ initiatives in Maine be required to conform to a single-subject rule?

Yes No No consensus

Comments/Clarifications:

Relevant Reading:

- Study Report: Section 4.B, paragraphs on single-subject rules; Glossary.
- [Ballotpedia. \(n.d.\). Single-subject rules.](#)
Provides general background on the issue, including arguments for/against and relevance of the single subject rule for different states.
- [NCSL. \(2009\). Single-subject rules .](#)
Website that provides general background on the issue, including arguments for/against and relevance of rule for different states.
- [Norman, Ben. \(2019\). The single subject rule: pros and cons. The Chamber News.](#)
Chamber Business News is a project of the Arizona Chamber Foundation in partnership with the Arizona Chamber of Commerce & Industry. The article discusses a situation in Arizona where the single-subject restriction applies only to laws passed by the legislature but not to ballot initiatives.

General Discussion. A single-subject rule requires that proposed legislation be restricted to one issue or subject. The intent is to make the drafted legislation clear and unambiguous for legislators and citizens. In some states with this requirement, a side effect has been the pursuit of numerous court cases aimed

at invalidating proposed or passed legislation on the basis of a “single-subject” violation. According to Gilbert (2006, p. 803), “...the single-subject rule remains a source of uncertainty and inconsistency for legislators and the legal profession. The root of the problem lies in the inability to define the term ‘subject’ using legal doctrine.”¹

Maine: Maine does not have rules that limit or restrict the subject matter to a single subject. Maine’s law for CIs states “The Secretary of State shall advise petitioners that the proper suggested format for an initiative question is a separate question for each issue.” Guidelines are provided for determining whether there is more than one issue. The Study Committee found no examples during the recent past of CI containing separate questions for different issues addressed by a single CI.

Other States: Some states impose the rule on both legislature- and citizen-initiated bills, others on one or the other type of bill, and a few states, like Maine, on neither type of bill. Of the 26 states that have a process for CI, 16 have either the single-subject rule or separate-vote requirement provisions. Forty-one states have constitutions that specify legislative bills may address only a single subject. Maine is one of only seven U.S. states that does not have a single-subject rule for legislatively proposed bills (Gilbert, 2006).

Because Maine asks applicants to provide information about funding sources for proposed legislation, there is some question about whether a CI proposing a new program plus a new tax to cover the program (e.g., the 2018 Home Health Care Initiative) would be considered one or two questions should Maine adopt a single-subject rule. Specifying the proposed funding source in addition to the proposed legislation does not seem to violate the single-subject rule in states that have it. For example, California’s single-subject rule did not invalidate the 2016 Proposition 64 on Marijuana Legalization, which included a specific state excise tax on the retail sale of marijuana.

Arguments FOR a single-subject rule	Arguments AGAINST a single-subject rule
<ul style="list-style-type: none"> • Initiatives that contain only one subject are easier to draft. • Single-subject initiatives are easier for voters to understand and there is less resulting ambiguity regarding voters’ intentions. • Single-subject rules prevent a less popular issue from being bundled with a popular issue in hopes that both are passed. This is called “log rolling.” 	<ul style="list-style-type: none"> • The SoS guidance that separate questions be used for different issues already offers a solution. • The single-subject rule remains a source of uncertainty and inconsistency due to the difficulty of legally defining the term “subject.” • This rule can be strictly and subjectively enforced so only narrowly defined subjects make it to ballot. • If Maine legislators do not have such a restriction, citizen-initiated legislation also should not have one.

¹ The article provides numerous examples of the single-subject rule being used to overturn legislatively initiated bills on technical rather than substantive grounds.

CQ 4. Does your group support the introduction of subject/topic restrictions to improve the citizen initiative process in Maine if they do not unduly limit citizens' rights to propose timely legislation?

Yes No No consensus

Comments/Clarifications:

Relevant Reading:

- Study Report: Section 4.B; Glossary.
- NCSL. (2002). [Section 3, Table 4, pp. 17-21](#). Provides information about types of subject restrictions prevailing in other states at the time of their study and their assessment of the pros/cons of different restrictions.
- NCSL. (2009). [Initiative Subject Restrictions](#). Provides a 2009 update of the table of restrictions by state (Table 4) that was in the 2002 document.

General Discussion. If subject restrictions were to become part of the application requirement for proposed legislation, it would be through constitutional amendments and legislation limiting the types of topics that citizen groups were able to influence through Cis/PVRs. Subject restrictions could also be used to prevent rapid reintroduction of a new CI based on the subject of recently failed CI efforts. We review the restrictions that exist in Maine and elsewhere and differing views about the role they play.

Maine. Maine does not impose any restrictions concerning the subject matter of a ballot measure, nor does it limit how soon a new initiative can be introduced addressing the same subject matter as a previous one. However, there have been attempts to introduce some limits, particularly for tax and appropriations issues (e.g., [L.D. 252](#), 129th Legislature) and the Maine Heritage Policy Center has advocated for these types of restrictions (Posik & Sigaud, 2018).

Other States. Half of the 24 states with CIs have some type of subject restriction. For example, initiatives in Alaska and Wyoming may not dedicate revenues, make or repeal appropriations, or affect the judiciary. The Massachusetts Constitution authorizing CIs/PVRs includes a long list of restricted topics, including measures related to religion, the judiciary, specific appropriations, anything that would restrict rights found in the MA Constitution's Declaration of Rights, and anything relating to the 18th Amendment of the U.S. Constitution (prohibition of alcohol).¹ Mississippi does not allow CIs to repeal or modify the state's Bill of Rights, public employees' retirement system, right-to-work provision, or the initiative process itself. Restrictions on money matters (appropriations, taxes, and fees) tend to be the most common and the most contentious.

An extensive study of the initiative process in Oregon, found that:

Mandating changes in revenue and expenditures through the initiative system disrupts the state's budgeting process, confounds the legislature's constitutional requirement to balance the

¹ Details from Article XLVIII: Amendments to the Massachusetts Constitution, available through [Ballotpedia. \[n.d.\] Article XLVIII](#)).

state's budget and negatively affects state and local bond ratings. (City Club of Portland, 2008, p. iv)

Several states prevent citizens from initiating CIs with the same, or substantially similar, subject matter within a defined period of time. Citizens in Massachusetts, Mississippi, and Utah, for example, may not reintroduce the same measure over a two-year period while in Nebraska and Wyoming, the waiting period is three and five years respectively. Oklahoma, however, increases the signature threshold, rather than imposing a time period, if the same measure has been initiated within the previous three years.

Arguments FOR subject restrictions	Arguments AGAINST subject restrictions
<ul style="list-style-type: none"> • Crafting complex policies through CIs can be a logistical nightmare for implementation; initiatives should be reserved for simple policy issues to avoid unintended consequences. • Limiting the frequency that a CI addressing the same subject can be introduced will reduce costs. So will limiting subject matter. • Complicated tax policy is a multisystem public policy issue that deserves open discussion; only the legislature can provide this. • Prohibiting citizen initiatives from increasing taxes and fees is in line with policies in four other states. • Complex policies that affect multiple sectors cannot be boiled down to simple 'Yes' or 'No' questions on a ballot. 	<ul style="list-style-type: none"> • Maine voters have supported CIs to strengthen public schools, expanded access to health care, and build critical infrastructure. This would not have been possible if tax and appropriation issues could not be addressed in a CI. • Industry lobbyists thwart attempts to pass popular bills requiring new taxes. When legislative attempts fail, citizens should be able to bring these issues to the voters any number of times. • The Maine legislature is not faced with subject restrictions or limits on reintroduction of modified bills on the same topic so citizens should not be either. • Imposing subject restrictions is often a partisan attempt to thwart the passage of popular ideas by voters in another party.

4. Signature Requirements for Petitions

CQ 5. Should petition signature requirements for Maine's citizens' initiatives and people's veto referenda include geographic considerations?

Yes No No consensus

Comments/Clarifications:

If your group has a particular preference for the type of geographic considerations that would be most appropriate for Maine, please indicate that in your comments.

Relevant Reading:

- Study Report: Section 4.B; Glossary.
- Ballotpedia, (n.d.) [Distribution Requirements](#). Describes different types of distribution requirements in effect throughout the U.S. and ranks states by the difficulty of their distribution requirements. Also includes pro/con arguments and some review of lawsuits triggered by some distribution requirements.
- [Bangor Daily Brews](#). (2019, Jul 30). [“Is it time for referendum reform?”](#) Podcast moderated by Susan Young with Jacob Posik of Maine Heritage Policy Center and Carroll Conley, Jr. of the Christian Civic League of Maine as invited participants. This is a long (1.5 hours) podcast of a forum organized by the Bangor Daily News in Bangor to discuss pros and cons of CI/PVR reforms under consideration. The topic of geographic distribution was mentioned frequently by the invited speakers as well as by the audience, with strong views on both sides.
- [Bangor Daily News Editorial Board](#) (2019, Mar 5). How referendum reform can help the unhelpful two Maines discussion. Argues in favor of geographic distribution rules for Maine.

General Discussion: A geographic distribution requirement is the most commonly proposed change to the current CI/PVR signature process. This would mean requiring that the CI petitions be signed by a certain number or percentage of voters in different political subdivisions such as counties or congressional districts. More signature requirement rules mean greater costs for petitioners. For example, requirements to include a certain share of rural voters who live in geographically dispersed locations would significantly increase the travel and labor costs compared with a requirement that permits one to reach signature targets by canvassing only densely populated urban areas.

Maine. Maine’s current signature requirement for CIs and PVRs is “...not less than 10% of the total vote for Governor cast in the last previous gubernatorial election”, established by constitutional amendments in 1947 and 1951 (Maine State Legislature 1947 and 1951). There is no geographic distribution requirement.

Any change in the signature requirements for CI/PVR petitions in Maine requires a constitutional amendment (the resolution must pass by a two-thirds margin in both the House and the Senate and then go to referendum where passage is by majority vote).

Other States. In the 26 states with some type of initiative process (including constitutional initiatives), 13 have laws imposing distribution requirements on CI statutes and/or PVR while 12 do not.¹ There have been several court cases on the issue, most of which declared county-based rules unconstitutional due to unequal populations across counties ([Ballotpedia, n.d., Distribution Requirement](#)).

¹ The on-line map at https://ballotpedia.org/Distribution_requirement provides details for each state.

Arguments FOR Geographic Requirements	Arguments AGAINST Geographic Requirements
<ul style="list-style-type: none"> • Distribution requirements can demonstrate widespread support for a ballot question because voters from a variety of political subdivisions signed the petitions. • Distribution requirements are a way to prevent voters in small but populous areas from controlling the measures that appear on the ballot. • Voters have approved of the establishment or increase of distribution requirements in other states. • Geographic requirements are an equitable way to place a check on rapid expansion of legislation through CIs and to make petitions more representative of the voting population. 	<ul style="list-style-type: none"> • A petition is not the same as a vote so does not require every person to have an equal opportunity to sign; any petition that makes it to the ballot is voted on by all voters. • Maine’s signature requirements are already among the highest in the U.S. • Distribution requirements can drive up the cost of petition drives by forcing signature collection in low population areas. • Federal courts have ruled in some cases that these requirements are so onerous on the free speech rights of petition proponents that they violate the U.S. Constitution.

Source: [Ballotpedia, \(n.d.\) Distribution Requirements, Arguments Section](#) and Study Committee.

5. Maine Citizen’s Guide (CQ 6, 7)

General Issue for Section 5: Given the complexity of some Citizens’ Initiatives and People’s Veto Referenda, there have been numerous attempts to legislate the type of information provided to voters and how that information is made available. Two pertinent issues identified by the Study Committee are (1) the accessibility of the Maine Citizen’s Guide to the Referendum Election and (2) how pro/con arguments are solicited and presented in this Guide.

CQ 6. Should the state be required to review the budget, content, and distribution plan for the Maine Citizen’s Guide to the Referendum Election regularly to improve readability and ensure the broadest possible distribution?

Yes No No consensus

Comments/Clarifications:

If your group agrees to specific priorities for improving the distribution of the Citizen’s Guide, please describe them in the comments section.

Relevant Reading:

- Study Report: Section 8, particularly 8.A; Glossary.
- Maine Government, SoS ([2018, Jun](#)). [Maine Citizen’s Guide to the Referendum Election](#). An example of information provided about ballot questions in the Citizen’s Guide; covers the PVR to repeal legislation delaying the implementation of ranked-choice voting.

- Maine Government, SoS ([2018, Nov](#)) [Maine Citizen’s Guide to the Referendum Election](#). An example of the type of information the Citizen’s Guide provides on ballot questions; covers the Universal Home Care Program.

Maine. The Maine Citizen’s Guide to Referendum Elections offers the most detailed set of information about ballot questions from an official government source. It is designed to be read by voters before they go to the polls but is not available during the petitioning process. The Study describes the historical evolution of the Citizen’s Guide, current content, and distribution policies. We summarize the highlights below.

The Citizen’s Guide is generally available a month before elections from the SOS website. It is also sent to public libraries and all municipal offices and to any voter who requests a copy. Good examples of content include the [June 2018 Maine Citizen’s Guide](#), which covers a single ballot measure, a People’s Veto Referendum concerning Ranked-choice Voting, and the [November 2018 Maine Citizen’s Guide](#), covering the more complex initiative on Home Health Care Initiative.

Despite the substantial progress made by the office of the SoS in making the Citizen’s Guide more informative over time, our study identified some weaknesses with the current dissemination plan when compared to what is available in other states: (1) Maine’s Guide is only available in English; (2) There are no versions for the visually impaired; (3) Few voters know about it; and (4) It is not widely distributed.

Other States. Of the 16 states that publish a guide, five states offer large print versions and six offer audio versions (some with closed captions). Montana provides a braille version. Six states publish guides only in English. The other ten publish guides in a variety of languages from Spanish to Tagalog. California guides may include art, graphics, and other materials to make the guide easier or more useful for the average voter.

While most state guides are available online and distributed to libraries and town offices, 11 states mail guides to every voter (or household). In addition to mailing guides, California also distributes copies to every state legislator, high school, and post-secondary institution.

Arguments FOR regular review of the Citizen’s Guide content, distribution plan, and budget	Arguments AGAINST regular review of the Citizen’s Guide content, distribution plan, and budget
<ul style="list-style-type: none"> • The way voters access information is rapidly changing, thus there is a need to review and modify content and distribution plans to keep up with changes. • The increase in unsubstantiated and/or unattributed information about issues before voters makes it important for the Guide to become a broadly available source of reliable, easy-to-read information. • The current limited distribution of the Guide does not make good use of the resources that have gone into its preparation. 	<ul style="list-style-type: none"> • There is already a great deal of information about a CI/PVR via other publications and advertising. • The current content and distribution meet voters’ needs. An unnecessary review process is burdensome and costly to the government and distributing it more widely will add to distribution costs. • Studies have shown that voters prefer to get their political information from friends, family, and local newspapers.

CQ 7. Should the Maine Citizen’s Guide to Referendum Elections prepared by the Secretary of State keep the current process for including arguments in favor of and against ballot questions?

Yes No No consensus

Comments/Clarifications:

If your group thinks that the method should change, please note if you have a preference for how the pro/con information is obtained and presented in the future.

Relevant Reading:

- Study Report: Section 7.C and Appendix 7.1.
- Healthy Democracy. (n.d.) [What does a healthy democracy look like?](#) Four-minute video about the Citizens’ Initiative Review (CIR) process from an Oregonian perspective.
- Massachusetts Citizens Initiative Review Pilots: [2016](#) and [2018](#): Each link offers a copy of the materials prepared by the two CIR pilot programs in Massachusetts (e.g., key findings and statements of support and opposition).

Maine: Public comments in The Maine Citizen’s Guide to Referendum Elections are provided by anyone who pays a \$500 filing fee. Comments are limited to a total of three pro and three con for each ballot question in the Guide (determined by the earliest filing dates). Since 2006, any individual, corporation, PAC or organization (not limited to those in Maine) can file public comments in support of or opposition to any initiative or referendum. These public comments are up to 300 words in length and are published exactly as presented in the accepted application. A disclaimer is required by law that “The printing of this public comment does not constitute an endorsement by the State of Maine, nor does the State warrant the accuracy or truth of any statements made in the public comment” ([Maine Government, Secretary of State, 2006, p. 4](#)). Neither the [November 2018 Citizen’s Guide](#) nor the SoS webpage ([Maine Government, Secretary of State, 2018, Oct](#)) announcing the Guide published a notification of how the public comments were obtained or mention the payment of fees.

Since 2006, there have been 24 initiatives. No public comments were filed for 10 of them. Only one (Taxpayer Bill of Rights) had three pro and three con public comments. The November 2018 Maine Citizen’s Guide included two public comments against and none in favor of the Home Care for Seniors Program ([Maine Government, Secretary of State, 2018, Nov, pp. 18-19](#)).

Other States. Twelve other states¹ include public comments in their guides. The format varies and some states permit unlimited numbers of comments. Word limits range from 150 to unlimited. Four states permit rebuttals.² Three states appoint committees to write the pro/con statements³ and committees in Nevada can seek public input. Only three states charge a fee to submit public comments: Arizona \$75, Maine \$500, and Oregon \$1,200 (waived upon receipt of a petition signed by at least 500 voters). We

¹Alaska, Arizona, California, Idaho, Massachusetts, Montana, Nebraska, Nevada, Oregon, South Dakota, Utah, and Washington. Ohio accepts public comments but they are published only in newspapers, not in the voter guide.

²California, Idaho, Montana, and Washington.

³Montana, Nevada, and Washington.

summarize three options below, widely discussed in the CI/PVR literature as ways to improve information available to voters on the pros and cons of particular ballot questions (see Study Report for a more detailed description).

Option 1: Government Appointed Committees. Some state governments (e.g., Washington) appoint separate “pro” and “con” committees that write and submit arguments advocating the approval or rejection of each statewide ballot issue and rebuttals of those arguments. The rules for selecting committee members vary ([Washington State, n.d.](#)).

Option 2: Selected Campaign Proponents and Opponents. Some states (e.g., Massachusetts) seek arguments for and against from the principal proponents and opponents ([League of Women Voters of Massachusetts \[LWVMA, 2018\]](#)).

Option 3: The Citizens’ Initiative Review (CIR). This brings “randomly selected and representative panels of voters together to fairly and thoroughly evaluate ballot measures and give voters information they trust” ([Healthy Democracy, n.d. Citizens’ Initiative Review](#)).

Arguments FOR retaining Maine’s current system for drafting pro/con arguments	Arguments AGAINST retaining Maine’s current system for drafting pro/con arguments
<ul style="list-style-type: none"> • Proponent and opponent groups are in the best position to write these statements. Usually, they have developed in-depth knowledge and expertise on the subject. It is their choice if they decide not to have a presence in the Citizen’s Guide. • Proponents and opponents of CIs/PVRs are usually well funded and can pay to have their points of view represented in the Maine Citizen’s Guide. • Maine state government should have no role in creating the public comments available to all voters, even the role of convening a “jury-like” representative study group and paying them. • The current system brings some revenue in while alternative systems would require state expenditures. 	<ul style="list-style-type: none"> • The public has a right to a fact-based, useful public resource that strongly presents both “pro” and “con” arguments. • The costs of publishing the statewide Citizen’s Guide should not be offset by potentially non-factual written “pro” and “con” arguments. These statements are like paid political advertising, but not labeled as such, and no one is fact-checking arguments that do get published. • There is no guarantee that the number of arguments for and against will be balanced-- in fact, there might be up to 3 arguments made for one side and none for the other. • Requiring a fee for inclusion of comments in the Citizen’s Guide is biased against small, grassroots efforts with limited funding.

6. Campaign Finance Issues for CI/PVR Ballot Questions

General Issue: Are Maine’s CI/PVR campaign finance laws adequate? How well does the current LWVME position on money in politics address ballot question financing issues?

CQ 8. Should the LWVME adapt the current position statement on campaign financing of candidate elections to include ballot question elections?

Yes No No consensus

Comments/Clarifications:

Please identify in the comments any part of the current position statement that you do not consider relevant to the CI/PVR process and note specific CI/PVR campaign finance actions that you would like to prioritize.

Relevant Reading:

- Study Report: Sections 9.A-9.C and Appendices 9.1-9.3.
- [LWVME “Impact on Issues”](#) (2019, p. 3 on campaign finance and pp. 15-19 on Ethics and Disclosure). Provides some details of current LWVME position on campaign finance and money in politics.
- [LWVUS “Impact on Issues 2018-2020”](#) (2019, pp. 23-27). Provides some details of current LWVUS positions on campaign finance and money in politics.

Maine. At present, the Maine Commission on Government Ethics and Election Practices (the Ethics Commission) manages all candidate and ballot question¹ campaign finance reporting.² The Ethics Commission publishes [A Guidebook for Political Action Committees & Ballot Question Committees](#) which was last up-dated July 2017. It provides guidelines on registration and reporting requirements. Information contained in reports filed by Political Action Committees (PACs) and Ballot Question Committees (BQCs) is then made publicly available via the Ethics Commission’s data base which is available on their [website](#). Details on types of information and frequency of reporting are available in the Study Report. Maine’s rules are similar to those of other states and to the rules for candidates, the major exception being contribution limits for candidates but not for ballot questions. In its 1978 *Bellotti* decision, the Supreme Court ruled that “the risk of corruption” it perceived “involving candidate elections is not present in a popular vote on a public issue” (Bowler, Donovan & Karp, 2007, p. 360), hence the lack of contribution restrictions for ballot question campaigns.

A long-standing critique of the Ethics Commission database is that it is difficult to develop reliable estimates of contributions and expenditures for a particular ballot question. Official summaries were only available for the organizations reporting to the Ethics Commission (e.g., PACs or BQCs) and the public had to make their own calculations of total spending per ballot question by accessing the data for each individual organization that supported or opposed a particular ballot question. This led to different

¹ The Ethics Commission generally uses the term “ballot question” but the Maine Citizen’s Guide and some documents from the SoS use the term “referendum question.” Both terms refer to citizens’ initiatives (also called “direct” initiatives in the Maine Constitution and statutes), people’s veto referenda, bond issues, and legislatively referred bills or constitutional amendments that appear on the ballot.

² In all other states reviewed in the study (except Massachusetts), campaign finance is managed by the same government agency that manages CIs/PVRs.

estimates by third parties such as Ballotpedia, FollowTheMoney, and the Maine Heritage Policy Center. In 2018, the Ethics Commission began summarizing expenditures by ballot question—a much needed improvement, but not a full solution to the issue of different estimates by third party analysts.

A major concern for those monitoring ballot question campaigns is the total amount of spending. The money involved in Maine’s ballot question campaigns is variable depending on the number of ballot questions and the issues being addressed, the latter tending to influence total spending more than the former. In 2018, the Ethics Commission’s estimated expenditures for the two CI/PVR issues on the June and November 2018 ballots totaled approximately \$4.6 million or about 11% of the total contributions of \$43.4 million monitored that year.¹ For the 2016-2018 period, Maine’s average expenditure per ballot question and average cost per required signature were generally lower than that of most other states.²

The share of contributions coming from out-of-state is also a concern. From 2009-2017, 71% of funding for Maine’s ballot questions came from non-Maine sources (Posik & Sigaud, 2018), yet historically this heavy spending has not guaranteed success at the polls. As noted in the Study Report, local newspapers frequently address this issue, both as news items and in the editorial section.³

The current LWVME position on PACs and candidate campaign finance, adopted in December 2011, states:

LWVME supports reform in the financing of state candidate PACs consistent with the LWVUS position on Campaign Finance Reform. This means that LWVME supports measures to improve the financing of candidate PACs in order to ensure the public’s right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office and promote citizen participation in the political process. Applying these principles to PAC reform in Maine provides a basis for sound action in the changing constitutional context, as the Supreme Court of the U.S. reshapes the landscape of permissible reform. Support for publicly financed elections is at the core of the League’s work on campaign finance reform in Maine, along with support for meaningful disclosure and regulatory compliance.

Other States. Publications on the pros/cons of the initiative process across the U.S. have frequently criticized the growth in money spent on ballot questions, particularly increasing shares of out-of-state funding and the involvement of “for hire” signature collection services (e.g., Broder, 2000; Ellis, 2002; Wilson, 2019).

Massachusetts and California passed legislation to limit ballot question donations only to have the legislation blocked by the courts using First amendment free speech arguments (e.g., LWVMA, 2017). These court decisions increase the importance of the role played by Maine’s Ethics Commission in collecting and reporting information about who is supporting or opposing each ballot question so voters can cast well-informed votes.

¹ Maine Ethics Commission, ballot question expenditure data accessed 9/4/19:
<https://www.mainecampaignfinance.com/#/exploreBallotQuestionDetails/1/135/2018> and
<https://www.mainecampaignfinance.com/#/exploreBallotQuestionDetails/1/134/2018>

² From information at Ballotpedia on campaign finance
https://ballotpedia.org/Ballot_measure_campaign_finance,_2018) and
https://ballotpedia.org/Ballot_measures_cost_per_required_signatures_analysis); accessed 9/11/19.

³ See, for example, [Fossel](#) (2019) and links to news articles in Appendix 9.2 of Study Report.

Arguments FOR adapting existing LWVME campaign finance position to include ballot question campaigns	Arguments AGAINST adapting existing LWVME position to include ballot question campaigns
<ul style="list-style-type: none"> • Draws on substantial prior work on campaign finance issues by LWVUS and LWVME • Similarity in ME legislation on campaign finance of candidates and ballot questions justifies expanding most of existing statement to include ballot questions. • PACs and BQCs have similar purpose, activities, and campaign finance reporting rules when dealing with either CIs and PVRs or candidate campaigns, so it makes sense to build on existing position for PACs. 	<p>A separate ballot question campaign finance position is needed because:</p> <ul style="list-style-type: none"> • Opportunities for corruption are different in candidate & ballot question campaigns; • Ballot question campaigns have no contribution limits but candidate campaigns do. • Estimating ballot question contributions and expenditures is more complex than estimating candidate contributions and expenditures, so may need a different perspective

7. Post-Election Legislative Treatment of Voter-Approved CIs/PVRs

CQ 9. Do you support constitutional amendments or laws that limit the ability of the Maine State Legislature to overturn or substantively revise citizens’ initiatives and people’s veto referenda approved by voters?

Yes No No consensus

Comments/Clarifications:

Please clarify in the comments if your group consensus is “yes” and the group is more favorable to some ways of limiting legislative authority than to others.

Relevant Reading:

- Study Report: Sections 3.D and 4.E
- One or more of the news articles referenced in Section 4.E of the Study Report, particularly those listed in footnote 12. These articles are a combination of news and opinion; they provide an overview of Maine’s recent experience with implementing CI and different opinions about the role of the Legislature once a CI is approved by the voters in Maine and elsewhere.

General Discussion. According to The New York Times, one-quarter of the 46 ballot initiatives approved by voters in the 2016 election were rolled back or altered in implementation the following year ([Williams, 2018](#)). The relevance of this issue for Maine, which has no limits on how soon or with what majority the legislature may amend, repeal, or reinstate a measure, is discussed in the Study Report. Although amendment and repeal of a CI is more common than reintroduction of legislation repealed by a PVR, both are possible legislative responses following a ballot question election.

Maine. The Study Committee did not find any recent examples of the Maine State Legislature reintroducing a voter-approved PVR; however, the Legislature has frequently taken advantage of its

constitutional right to repeal or amend voter approved CIs. Table 3.3 of the Study Report lists six recent examples of CI legislation implemented but subject to subsequent amendment, repeal, or neglect by the Legislature and/or governor. In several cases, inadequate budget/appropriation was cited as the reason for non-implementation. Although the Maine Constitution provides an opportunity for the Legislature to resolve appropriations issues during the next sitting Legislature, it does not require resolution. Voter-approved legislation is automatically enacted 45 days after the Legislature reconvenes; however, if funding issues have not been resolved, the enacted bill is not implemented.

The issue of the Maine State Legislature amending, repealing, or ignoring a successful CI vote has been raised recently in the media and through the introduction of bills during the 129th Legislature.

One argument for retaining legislative rights to amend or repeal is the poor quality of the draft legislation; another is the inadequate treatment in the proposed legislation of funding mechanisms. The frequency with which these arguments are offered suggests that the two issues (pre-petition drafting assistance for applicants and post-election amendments or repeals by a legislature) are best considered in tandem. The dilemma is that a situation with no restrictions on a legislature gives the appearance that it can ignore the popular will, yet the imposition of rigid restrictions such as lengthy “hands-off” periods can mean living with the negative consequences of poorly written bills and/or lengthy court cases.

Other States. Of 99 total initiatives nationwide from 2010 through 2018, 28 were repealed or amended as of April 2019. The states with the highest incidence of legislative alterations of initiatives approved since 2010 were Maine—with four initiatives altered out of eight approved—and Colorado and Oregon—each with three initiatives altered out of five approved (Ballotpedia, 2019 Apr, Legislative Alterations).

Of the 21 states that have CIs, 11 have no restrictions on legislative activity after the CI has passed. Ten states have some restrictions and two require voter approval. In California, where voter approval is required to amend a voter-approved CI, the League of Women Voters of California (LWVCA) adopted a position statement supporting some limited amending power for the legislature.

Under limited circumstances, the legislature, without approval by the voters, should be allowed to amend a statute adopted by initiative. Circumstances could include that the amendments are consistent with the original intent of the initiative or are made after a waiting period. ([LWVCA, 2013, Section 9a](#))

Arguments FOR limits on legislative power to amend or repeal CIs/PVRs	Arguments AGAINST limits on legislative power to amend or repeal CIs/PVRs
<ul style="list-style-type: none"> • CIs/PVRs are meant to be the voice of the people so successful ones should not be negated or amended by the Legislature. • Ten states with CIs/PVRs have restrictions. • A well-designed restriction that allows for some limits on what the Legislature can do is better than the current situation where Maine has recently led other states in the share of legislatively repealed or modified CIs. 	<ul style="list-style-type: none"> • The Legislature needs the flexibility to “fix” poorly conceptualized or ambiguous CIs/PVRs and address unintended consequences. • The Legislature represents all of Maine and should be able to modify all laws including CIs/PVRs, especially if passed or repealed by small margins. • Some CIs require funding for implementation that does not exist and the Legislature must be able to intervene in these cases.

8. Views on the Future of Participatory Democracy in Maine (CQ 10, 11)

General Issue: Should the tools of participatory democracy be continued and/or expanded in Maine?

Discussion: At present, Maine citizens have access to the CI and PVR process—two of the three principal tools of participatory democracy used in the U.S. The third tool is the right to initiate constitutional amendments. CQ 10 and CQ 11 ask you to evaluate the pros/cons of having all of these tools available to Maine voters in the future.

CQ 10. Does your group support the continued use of citizens' initiatives and people's veto referenda as complements to representative democracy in Maine?

Yes No No consensus

Comments/Clarifications:

If your group answers "yes" but has concerns about parts of the system that you would like to see reformed, please comment on your reform priorities.

Relevant Reading:

- Section 2 of Study Report.
- Brautigam, John. (2018) [Citizen initiatives put power in right hands](#). *Maine Compass*. An opinion piece that comments on the CI/PVR process, compares it to a regular legislative process, and concludes that despite some shortcomings, the CI/PVR process is an important component of our democracy. (3 pages)
- Dyck, Joshua and Lascher, Edward Jr. (2019). [More ballot initiatives won't make Americans feel better about politics](#). *The Fulcrum*. A synthesis of recent research conducted by the authors that raises many questions about whether the CI process is really making a positive contribution to our democracy. <https://thefulcrum.us/expanding-direct-democracy-wont-make-americans-feel-better-about-politics> . (3 pages)
- Fossel, Jim. (2019). [Maine lawmakers should trust citizen initiative process](#). *Portland Press Herald*. Opinion piece. Points out some of weaknesses in CI/PVR process, but argues that voters have been wise and the system generally works well. (2 pages)
- Taub, Amanda and Fisher, Max. (2016, Oct 4). [Why Referendums Aren't as Democratic as They Seem](#). *The Interpreter, The New York Times*. This article is primarily about national referenda put to the voters by the government (e.g., Brexit). We have included it because many of the authors' criticisms of the national referendum process are also relevant to smaller scale, more local initiative and referendum processes. (5 pages)

Maine. There has been wide-spread use of this constitutional right by both major parties on a variety of topics (social issues, civil rights, gambling, and taxes, among the most common). Although the number of CIs/PVRs has increased over the years, they represent a small fraction of all legislation passed by the Maine Legislature. The Study Committee found no proposals by the public or the Legislature to

eliminate CIs/PVRs in Maine, but rather a variety of proposals to reform the process¹ and a few opinion pieces² suggesting that the system works well as is and does not need reform.

Other States. Twenty-six states have some form of CIs/PVRs. Sixteen states have provisions for all three types of initiatives and referenda (law, constitutional amendment, and veto referenda). The remaining 24 states have no form of participatory democracy.

Arguments FOR continued use of CIs/PVRs in Maine	Arguments AGAINST continued use of CIs/PVRs in Maine
<ul style="list-style-type: none"> • Provides a mechanism for citizens who believe legislators are not being responsive to the will of the people. • Acts as a “safety valve” for funneling discontent with government into constructive action. • Can force the Legislature to deal with important but controversial issues that they try to avoid. • Encourages citizens to become more involved and informed about policy issues. • The CI/PVR process provides a balance to the influence of campaign contributions and lobbyists for special interests. • As mentioned by conservative journalist Fossel, it has been used by both parties on a variety of important issues with little indication that voters can’t evaluate options and make good decisions regardless of where the supporting money comes from. 	<ul style="list-style-type: none"> • Does not allow for discussion and compromise among conflicting points of view and interests. • When voters adopt a CI/PVR, they are expressing support for that measure over the status quo. They have no opportunity to say option A may be preferable to option B, which is the status quo, but is not as attractive as option C, an idea that is not on the ballot. • By circumventing the elected representatives of the people, CIs/PVRs can lead to a tyranny of the majority. • Representatives are better informed about complex policy issues than ordinary citizens. • CIs/PVRs have moved away from empowering the average citizen and toward becoming a tool for well-heeled special interests to advance their agendas.. • Ballot measures sometimes eliminate revenues or require expenditures from the state general fund without regard for the effect on other state general fund programs.

CQ 11. Should the Maine Constitution be changed to allow citizen-initiated constitutional amendments?

Yes No No consensus

Comments/Clarifications:

Please note in the comments if your group’s consensus on this question is contingent on accompanying rules that would need to be different from those now applying to statutory CI

¹ See, for example, [Posik and Sigaud](#) (2018) and [Bangor Daily News Editorial](#) (2019).

² See, for example, [Fossel](#) (2019) and [Brautigam](#) (2018).

Relevant Reading:

- Study Report: Section 2, Glossary
- City Club of Portland [OR]. (2008). [Making the initiative work for Oregon](#) (pp. 22-25 in particular). Provides examples of Constitutional Amendments proposed as initiatives that should (in the City Club's view) have been proposed as statutory changes.
- League of Women Voters of Oregon (LWVOR). (2001). [Oregon's Initiative System: Current Issues](#) (6 pages). Overview of Oregon's initiative and referendum system, with a short paragraph on issues of particular relevance to amending the constitution via CI.

Maine. At this time, Maine does not have a process for citizen-initiated constitutional amendments, which are changes to a state's constitution initiated by a citizen petition process. By using this initiative process, citizens can propose and vote on constitutional amendments directly, without need of legislative referral. At present, the Maine Constitution can be amended through a two-step process. First, two-thirds of both houses of the Maine State Legislature must approve a proposed constitutional amendment for it to appear on a ballot. Second, a majority of voters must approve it. Through 2017, the Maine Constitution had been amended 173 times; several of the amendments have been to clarify/revise rules about CIs/PVRs.¹

Other States. Eighteen states have a provision for citizen-initiated constitutional amendments with varying requirements. Ballotpedia ([n.d., Amending State Constitutions](#)) notes that in several states (Illinois, Mississippi, Massachusetts, and Oklahoma), the requirements for placing a proposed constitutional amendment to vote through an initiative process are difficult and the process has been historically rarely used. Three states (Florida, Montana, and Nebraska) have recently made the process more difficult. Although one state (Nevada) requires that a constitutional amendment be approved by voters in two consecutive general elections, 26 citizen-initiated constitutional amendments reached the Nevada ballot between 1995 and 2018 ([Ballotpedia, n.d., Nevada State Constitutional Rights](#)). States where the process has historically proven to be manageable for citizens include Arizona, Arkansas, California, Colorado, Missouri, North Dakota, Ohio, and South Dakota.

A comparison of the Oregon and Massachusetts experience with constitutional amendments suggests that the nature of the rules established for getting a constitutional initiative on the ballot is a critical element in how the initiative is used. Oregon's relatively easy rules for getting an amendment through the initiative process contrasts sharply with Massachusetts' more restrictive rules; the results are seen in the numbers of constitutional amendments introduced by CI and passed by voters (45 in Oregon and only three in MA). The tendency for amending the constitution rather than statutes by CIs led to the following observations from a City Club of Portland study of the Oregon system:

To preempt the possibility of repeal by the Legislature, the Oregon Constitution has been amended repeatedly in ways that would have been more appropriately addressed by legislative statutory enactment. As these amendments accumulate, the role of the Legislature as the principal lawmaking body of the state is diminished because initiatives placed in the constitution are effectively beyond the control of the Legislature. (City Club of Portland, 2008, p. ix)

¹ This [link](#) to the Maine State Legislature's Legislative History website provides details on all 173 amendments.

Arguments FOR citizen-initiated constitutional amendments	Arguments AGAINST citizen-initiated constitutional amendments
<ul style="list-style-type: none"> • Maine’s approach for passing citizen-initiated legislation has been used with discretion, suggesting that would also happen with citizen-initiated constitutional amendments. • If rules for constitutional amendments were written to make them more difficult to pass than statutory amendments, they would provide citizens with another tool for addressing legislative inaction without stimulating an onslaught of constitutional changes. 	<ul style="list-style-type: none"> • There is always a risk that Maine could follow the example of other states where the use of a constitutional amendment has become the most common type of citizen-initiated legislation. • Constitutional amendments should be limited and well thought out in terms of language and relationship to other parts of the constitution. To date, the initiative process has exhibited weaknesses in these areas so should not be applied to the Maine Constitution.

9. Wrapping it Up

You have now completed all the consensus questions. **THANK-YOU** for participating in the LWVME Consensus Study on Citizens’ Initiatives and People’s Veto Referendum. We know the Study Committee and State Board will learn a lot from your responses to the consensus questions and hope you have learned something about Maine’s CI/PVR history and process by participating in the study.

Please have your designated record-keeper fill out the electronic form provided with the Consensus Question Packet and submit it to the Study Committee via email (CIStudy@lwvme.org) by the established deadline.