Ballot Initiative STRATEGY CENTER

Top 10 Things to Think Through Prior to Launching a Ballot Measure Campaign

Although the initiative process can be an effective way to embed important and just policies into state law, like all mechanisms for social change, ballot initiative campaigns are costly and time consuming. To increase the chance for success at the ballot box, initiative proponents should do the necessary work prior to filing an initiative to assess whether the process is right for their issue.

Following is a list of 10 things that potential ballot initiative proponents should ask themselves prior to sponsoring a ballot measure.

1. Does your initiative have voter appeal?

If approved by voters, how would it affect the lives of the majority of the people in the state? As much as possible, ballot initiatives should be structured to appeal directly to voter's emotional or financial self-interest. Voters who do not have a personal stake in the outcome of a ballot measure are much more likely to be influenced by misleading information from opponents.

Initiatives to cut taxes have been extremely successful over the years; not necessarily because voters make an ideologically driven decision to shrink government, but because these measures almost always appeal to voter's short-term pocket-book based self-interest. On the flip side, self-interest has also made tobacco tax initiatives to expand health care equally victorious—non-smokers vote to increase taxes on a product they don't use in exchange for something tangible like access to prescription drugs or health care for children.

This is not to suggest that policy issues embraced by Americans do not often times appeal to their sense of fairness or empathy for others. However, an issue that doesn't appeal to voter's self-interest is more appropriate for a lobbying or grassroots mobilization campaign rather than a ballot initiative.

Ballot initiatives to reform election procedures, for example, are often difficult to frame to appeal to a voter's self-interest. Campaign proponents in 2002 to allow same-day voter registration were unable to convince voters that it was in their self-interest to make it easier for non-registered citizens to register to vote; even though it is difficult to oppose the notion of increasing civic participation in democracy by allowing more people to vote.

The only way to gauge popular support for an initiative is to poll on the proposed measure in question. Ballot initiative campaigns should begin with support of at least 65 percent of voters. The lower the support at the start of a campaign, the higher the probability that opponents can move votes below 50. Most voters are predisposed to keep the status quo, especially if the opposition spends heavily against the measure. As mentioned above, less than half of all qualified ballot initiatives have been approved by voters.

2. Is it simple and straight forward?

Structuring too complex of a ballot measure—often by attempting to do too much in one law— is the death knell of a ballot initiative. Complex social problems in this country often cannot be resolved by initiatives. Successful initiatives can always be explained in one succinct statement and often times focus on populist themes. Simple ballot initiative concepts also lend themselves to effective advertising campaigns. Ballot initiatives are often lost in the sea of news coverage of candidates and therefore campaigns should not rely solely on an earned media effort to communicate with voters.

The ballot initiatives in Oregon in 2002 and six states in 2006 to increase state minimum wage levels and tie future increases to inflation are examples of simple and straight-forward initiative issues. Despite being outspent in nearly every state, proponents have been successful at the ballot the majority of the time. These measures are easy to understand—with a message emphasizing economic justice and fairness—and media campaigns focused on the lives of the individuals who benefit from an increase in wages and the unjustness of members of Congress voting to increase their own wages eight times while refusing to increase the minimum wage for a decade. Although most voters are not minimum wage workers, the notion of adults working fulltime for less than $13,000 a year intuitively doesn't make sense to most Americans.

3. Does it have strategic or tactical value?

Proponents must ask themselves whether the initiative be difficult to beat. What are the implications of the proposed ballot measure if approved by voters? How far reaching is it? Has a similar law been approved in other states and is there potential to replicate it? Campaign finance reform, legalization of medicinal marijuana and term limits are examples of initiatives with both replicability and far reaching implications. The mere suggestion of a ballot measure can also be an effective way to leverage legislative change for decision-makers that for a variety of reasons do not wish to see an issue put to a public vote.

Is the initiative diversionary – will it force the opposition to spend a lot of money and time on the campaign? Ballot initiatives have often been used to drain the resources of an adversary, or at the very least distract them from their agenda. Does the presence of an initiative force the most stanch opposition to spend money against it? Conservatives have used this strategy to effectively force socially progressive groups to go on the defensive and use valuable resources on running 'no' campaigns against initiatives that threatened reproductive freedom, affirmative action, equal rights, the environment,

organized workers, nonprofit charities, public employees, public education, and the independent judiciary.

4. Can you attract the necessary resources?

Can proponents attract the necessary resources to run an effective campaign? The chances of victory are directly correlated with the amount of money raised and are almost always proportional to the amount of money the opposition spends. It is vital to research the opposition's financial capacity and carefully assess how much money and resources they will devote to defeating an initiative. If opponents have the potential to overwhelm a campaign with opposition funds, an initiative strategy may not be the best method to pursue. Successful initiatives tend to out-raise and out-spend their opposition. There are exceptions to this rule, but by and large if the opposition spends significantly more than the proponents, they are almost guaranteed to win.

Think clearly about actions that could be taken during the drafting of an initiative that could reduce the opposition. And start building alliances as soon as possible. For instance, the environmental organizations behind the 2002 water bonds initiative in California derive their success, in part, from effectively lobbying their opponents, such as the Chamber of Commerce, into backing away from running an opposition campaign well before the election.

Where initiative proponents were in a position to mount well-funded—or at least adequately funded, staffed and strategized ballot measure campaigns in the past—they have won some important victories. On the other hand, some well-publicized initiatives were never genuinely competitive, and their defeat was no real surprise. In 2002, Oregon's universal health care initiative faced 32-1 spending odds; Montana's "buy the dams" measures was outspent 41-1; and Oregon's genetically modified foods labeling measure was outspent 61-1, with the agricultural industry dumping more than $5 million into the campaign to defeat this measure. All three of these campaigns began with broad-based support, but they simply could not overcome their enormous opposition.

Initiatives are costly, both in terms of human resources and real dollars. Campaigns can cost anywhere from $100,000 to $160 million depending on the state, the issue and opposition. It is essential to have a feasible fundraising plan in place before attempting to qualify a measure. Most winning campaigns pay for at least a portion of the signatures to qualify a measure and organize a communications strategy that includes radio and television.

People power is equally important to factor in. Particularly for citizen-based ballot initiative efforts, it is imperative to have people on the ground across the state that are connected and invested in the initiative. Potential allies should be identified and brought into the campaign coalition early, especially members of the community that have credibility with the public, opinion leaders and the media. Campaigns with limited resources should also strive to attract support among organizations with a considerable membership and volunteer base.

5. Is it cost effective - will it cost relatively little to qualify?

It is not simply a matter of whether resources are available, but also whether investing previous resources in a ballot measure campaign is cost effective in the long term. If the majority of campaign

funds to qualify a measure need to be spent on signature gathering, than a ballot initiative is not the right approach to take. One of the first tactical considerations the campaign will undertake is deciding whether to utilize paid or volunteer signature gatherers. All-volunteer efforts are few and far between these days—but where possible they can be very effective. For example, the Humane Society, successfully collected 500,000 signatures using incredibly committed volunteers to qualify an initiative to ban gestation crates for pregnant pigs in Florida. By the end of a year and a half long signature gathering process they also had a database of approximately 12,000 volunteers.

Like everything else in a ballot initiative campaign, a decision about a method for collecting signatures is often a budgetary one. Costs for qualifying measures vary from state to state, largely based on the number of signatures required. Most states require between five and 20 percent of voters in the last gubernatorial election to sign a petition. Several states call for geographic distribution of signatures. For example, in Utah, 10 percent of the required signatures must come from 20 of 29 counties. Some states even require signature gatherers to be residents of the state. North Dakota is one such example.

Paid signatures can cost anywhere from $1-4 per signature, depending on the number of petitions being circulated in a state at the same time, geographic requirements, and several other factors, including the complexity of the issue. The more complex the issue, the harder it is to obtain a signature because it takes more time to explain the issue to voters. For a state like Florida it could cost around $1 million to qualify a measure if the effort was entirely driven by paid signatures.

Even without using paid signature gatherers, volunteer signature gathering also requires expenditures for recruiting, training and managing volunteers. Some experts believe that volunteer signature gathering drives can be nearly as costly as signature-gathering efforts.

6. Is the political climate right?

Like nearly everything in life, timing matters. In many states, ballot initiative proponents can choose which election they want their initiative to be a part of. Primary or general elections—and a varying set of competing candidates—draw different kinds of voters. Presidential elections tend to pull a more "liberal" voter than off-year elections. Lower turnout elections tend to bring out a disproportionate amount of white, fiscal conservatives. Careful thought should be given to how this affects the initiative issue in question.

Consideration should also be given to other issues in the public consciousness when a ballot initiative is launched. Firefighting and law enforcement organizations in Washington encountered little opposition to an initiative to increase control over their pensions. This is hardly surprising given the level of community support these public servants enjoy in a post-9/11 climate and the public's increasing understanding of how important it is for workers to have control over their retirement fund.

7. Will the ballot language be in your favor?

Ballot initiative titles and summaries should be as simple and as succinct as possible. Many initiative veterans believe that no single factor is more important to the success or failure of a campaign than the language of the initiative itself, especially the title. Even with an effective outreach strategy some voters will know nothing about a ballot initiative until they read the language for the first time in the voting

booth. Many otherwise strong initiatives have failed merely due to complex or confusing ballot language. Ambiguous or confusing ballot language provides an opportunity for the opposition to manipulate voter confusion. In states where proponents can write their own ballot language title, most successful campaigns test alternative ballot language through public opinion polling and focus groups.

Fiscal notes, which are attached to the ballot summary in the states that require them, can complicate things. For example, Ohio is one of about 12 states that requires fiscal notes for initiatives. However, unlike California, Ohio doesn't include information on the cost savings of implementing a measure. This is believed to be the main reason that a recent drug treatment instead of incarceration measure in Ohio failed. The ballot title included the cost for implementing the measure over seven years with no reference to cost savings. The 'yes' campaign chose not to challenge the language because the Supreme Court Justice who would have heard their argument was openly opposed to the measure. The campaign's polling showed that voter knowledge of the measure's projected cost—without showing costs savings—was the biggest factor in reducing support for the initiative from approximately 66 to 32 percent.

Ballot initiatives aimed at limiting the political participation of working class people—so-called Paycheck Protection measures—have benefited from titles that read like traditional campaign finance reform initiatives or employee projections. The title of Oregon's 2000 Paycheck Protection measure read "AMENDS CONSTITUTION: PROHIBITS PAYROLL DEDUCTIONS FOR POLITICAL PURPOSES WITHOUT SPECIFIC WRITTEN AUTHORIZATION," which made it difficult for opponents to help voters understand the true intent and effect of this anti-union proposal.

Similarly, in Florida in 1990, the League of Cities convinced the legislature to refer a measure to ban unfunded mandates. The legislature, which was opposed to the referendum, drafted their own language for the measure which was so confusing (the title had a triple negative) that voters, upon initial reading, thought it would have the opposite effect to what the law would actually do. It is important that ballot initiative proponents try to maintain control of their language, when possible.

8. Does it help or hurt candidates?

Does the presence of a ballot initiative motivate a progressive base or drive a conservative one? Does it help or hurt candidates that initiative proponents care about? Research shows that the presence and usage of the initiative process is associated with higher voter turnout in both presidential and midterm elections. The presence of certain ballot initiatives, such as a minimum wage increase or anti-abortion measure can also compel a certain type of voter to come to the polls and dramatically affect the outcome of the rest of the election. The presence of controversial ballot initiatives, like gun control, often lead opponents to pour money into extensive GOTV operations that can help or hurt certain candidates.

Ballot initiatives results can sometimes have unintended political consequences. The Latino vote in California over the past 20 years has been greatly influenced by two particularly controversial and divisive ballot initiatives. Ronald Reagan and other Republicans in the state had as much as 40 percent of the California Latino vote until the 1994 Governor's race in which Pete Wilson, then the Republican incumbent, championed Proposition 187—the anti-immigrants rights measure. Although Wilson won, after Proposition 187 the Republicans' share of the Hispanic vote in California has hovered at the 20-29

percent mark. Experts attribute this to the damaging effect of Wilson's association with this controversial measure.

The anti-affirmative action initiative in California—Proposition 209—had a similarly powerful result on voter turnout. Approved by voters in 1996, Proposition 209 banned the consideration of race in public hiring, contracting and school admissions. The California Republican Party supported the measure and Republican lawmakers aggressively raised campaign funds for it. A pro-Prop. 209 television ad used the words of Dr. Martin Luther King Jr. to convince voters the measure would lead to a color-blind society. But political observers say the campaign alienated minority voters from the Republican Party. The GOP lost its majority in the California Assembly that election, in part because minority voters incensed by Prop. 209 flocked to the polls. Governor Jeb Bush is said to have prevented the California proponents from sponsoring a similar measure in Florida in 2000 because he didn't want a racially divisive campaign to distract from the 2000 presidential election

9. Does it help or hurt other ballot initiatives?

How does the initiative impact other measures on the same ballot? In Washington state in 1996 gay rights activists collected the necessary signatures to qualify a non-discrimination measure. During the same election campaign, Washington Citizens for Handgun Safety, a coalition of religious, civic, and education groups, placed an initiative on the ballot that required safety locks for handguns. The National Rifle Association spent a tremendous amount of money to defeat this measure, which attracted a significant number of gun advocates to the polls who not only voted against the gun safety measure but also against the gay rights initiative and for the initiative to eliminate affirmative action. Improved coordination between like-minded campaigns and strategic positioning of certain ballot measures on particular elections can help ensure success.

10. Are you prepared to win?

Losing isn't winning. It is a grave mistake to think there is something beneficial to fighting the good fight for a ballot initiative without ensuring victory. Initiatives are difficult undertakings; and should only be waged if proponents believe there is a strong opportunity for success. Have all administrative, legal and legislative avenues to pass a law truly been exhausted? Policy issues in some states will never find success legislatively, which is why the process has been so important to institute laws such as physician assisted suicide, clean elections, animal protections and create funding sources for open space and education. By and large, if an initiative fails, it does little good. Ballot initiative campaigns can codify existing sentiments and beliefs that can either propel a movement or set-it back.