The Phyllis Schlafly Report

End Ballot Initiatives: We Are Not a Direct Democracy

By John and Andy Schlafly

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For most of our history, there was no process by which a private interest could initiate and enact a law by popular vote for its own benefit. Even today, this is not allowed for federal laws, and most states likewise ban this yet it was used to flip control of the Michigan legislature in the last election.

Our Founders were adamantly against direct democracy, the system in ancient Greece whereby citizens voted directly on new laws. Instead, our Constitution requires states to have legislatures to enact laws.

"The United States shall guarantee to every State in this Union a Republican Form of Government," declares Article IV, Section 4 of the Constitution. Courts have indicated that they are unwilling to enforce this clause, so it is up to Congress and state legislatures to protect it.

Yet some 21 states allow new laws to be enacted without approval by the state legislature, thereby creating a loophole for corporations to spend tens of millions of dollars on elections while otherwise banned from doing so. Colorado and Washington became the first states to legalize recreational marijuana, by short-circuiting their legislatures this way.

Michigan was on the road to economic recovery under its Republican legislature which held a 63-47 House majority after the 2016 election. Then Big Weed put its thumbs on the scale by placing a marijuana initiative on the ballot in 2018, spending millions to enact that Democrat-favored legislation.

The predictable side effect was to knock out more than half of the Republican lead in the legislature, dropping its majority to 58-52 and electing Democrats to statewide offices. In the 2020 election, lacking a similar ballot measure, the balance of power remained unchanged even though Democrat Joe Biden reportedly won that state.

Then in 2022, big money returned to Michigan to push through a ballot initiative for abortion. The distortion of $47 million spent for this abortion initiative enabled Democrats to

take control of the Michigan House for the first time in more than a decade while reelecting the Democrat governor, attorney general, and secretary of state.

This is the tail wagging the dog. Originally intended to be an occasional check-and-balance against corporate influence over a legislature, ballot measures have become a loophole allowing monied interests to capture legislative control of a state.

The above-quoted Guarantee Clause in the Constitution requires a legislative process for enacting laws. It should be unconstitutional for a private interest group to place legislation on the ballot for its own benefit, and then pour in corporate money to pass it.

Studies show the side that spends the most on a ballot measure is almost always the winner. In 2018, the bigger-spending side won all ten of the ten most expensive ballot measure contests.

In 2017 Missouri's Republican legislature joined the majority of states by protecting the freedom of workers not to join a labor union. But Democrats later poured more than $18 million into a ballot measure to repeal that right-to-work law.

Gambling spread throughout our country largely due to the ballot initiative process, as the gambling industry has ample funds to ensure passage of ballot measures that favor them. For more than a decade Missouri had in place a beneficial "loss limit" restriction on how much casinos could take from an addicted gambler in a 2-hour period.

Gambling interests repealed that good law by a ballot measure in 2008, as casino interests spent more than $15 million to boost their wicked industry. Both the Republican and Democrat gubernatorial candidates that year opposed the pro-gambling ballot measure, but it passed anyway as heavily funded by casinos.

Phyllis Schlafly always opposed ballot initiatives as a way to enact legislation. Along with her successful opposition to the Equal Rights Amendment in state legislatures, she also defeated the ERA when it was offered as a ballot measure in seven states.

The Ohio legislature now seeks to raise the threshold for passage of ballot initiatives for its constitutional amendments from a simple majority to 60%, but that may not be high enough or the optimal remedy. In our republican style of government, corporate mega-spending should not be allowed to try to enact new laws by popular vote.

State legislatures should narrow the scope of issues to be placed on a ballot, as many state constitutions already have a single-issue limitation. They could also seek to limit the scope of future ballot initiatives to tax- or government school-related issues.

Sen. Josh Hawley (R-MO) is a rising star who should be easily reelected next year unless liberal businesses are allowed to spend millions on the side running against him. The abortion industry may be planning to put its issue on the same ballot, and then dump ungodly sums in an effort to repeat in Missouri the distortion seen in Michigan.

John and Andy Schlafly are sons of Phyllis Schlafly (1924-2016) and lead the continuing Phyllis Schlafly Eagles organizations with writing and policy work.