



PLANNED CITIZENS' INITIATIVES CONSTITUTIONAL AMENDMENT



Download from: <http://www.initiativesamendment.org/>. Formats: Internet HTML, Adobe PDF and Word DOC.

Note: When reading this in printed form, you cannot follow the hyperlinks to the explanations.

Preface

The purpose of this Initiatives Amendment is to authorize **direct democracy** by the People using nationwide **citizens' initiatives**. It will help to restore our check and balance system that today's expensive media age has disturbed and to remedy the ensuing excessive influence by wealthy special interests groups. It will help ensure that Government's priority is the general well-being of the People over special interests.

The Amendment grants the Assembly broad authority so that it can evolve, improve, and meet changing circumstances without repeated Amendments.

The original Constitution was able to authorize Congress to make all **laws necessary** to clarify or fill any omissions. However, this Amendment must define the relationship between the Initiative process and Congress to avoid confusion. Consequently, this Amendment is relatively long.

This planned Amendment and its two referenced documents are drafts; the final texts will probably be **developed** by a States' Working Group and finally by an Article V Convention of the States. Early **support** for this draft by some State **legislatures** and by state **initiatives** will help make it a *de facto* reference.

This preface, titles, and comments are not part of the Amendment.

Amendment Text

Amendment Comments

Authorization

1.1 **Amendment X** of the United States Constitution shall be, and hereby is, amended by appending the following sentence: "The first power reserved by the people is the Initiative."

The appropriate point to start this Initiatives Amendment is by modifying Amendment X - Powers of the States and People.

1.2 This Constitutional Amendment **authorizes** nationwide United States Citizens' Initiatives. It establishes a deliberative U.S. Citizens' Initiatives Assembly to manage the initiative process and to select the Initiatives that appear on the ballot. The Assembly shall **consist** of a randomly selected cross-section of the People. The Assembly shall be independent, protected from tampering, responsible only to the People, and funded by the U.S. Government as an inalienable entitlement of the People.

The Assembly is an independent self-perpetuating organization of the People. This clause is constitutionally sufficient if Congress were to complete the details. However, since Congress is a source of many problems that this Amendment will resolve, the people cannot allow Congress to furnish the details.

Initiatives

2.1 U.S. **citizen groups** and **organizations** shall communicate Proposed Initiatives to the Assembly but shall not **abuse** this right.

The Amendment taps the creativity of the people and their organizations to propose Initiatives. To keep order, the Assembly has the power to **control abuse**.

2.2 Direct democracy by **Direct Initiative** shall be, and

The people must have parallel authority to

hereby is, authorized and granted to the People as an additional, parallel, and superior power to those granted to the U.S. Congress, and each House thereof, and to those powers that Congress has assumed, will assume, and could assume. Direct Initiatives shall have the power to do and undo all manner of things that Congress has done, does, and will do. Direct Initiative powers shall include, but are not limited to legislation, constitutional amendments, all powers under Article I Section 8 Clause 18, rules, policies, procedures, remuneration, perquisites, and ethics. The sole limitation shall be exclusion of impeachment trials by the Senate.

Congress to enforce checks and to correct deficiencies in any area that the people deem necessary. The people's power is superior as Congress cannot overrule the people and the President cannot veto the people.

Implied power, e.g., using the "[basket clause](#)," has required and enabled Congress to assume many things not in the Constitution. For maximum clarity, to avoid dispute with Congress, and to minimize need for Supreme Court interpretation, the basket clause and a list show specific matters Initiatives can address. By placing a sole limitation on the power of Initiative, the Supreme Court will be more likely bound to interpret that other powers are not limited.

Over time, Congress has been and will be creative at bypassing constraints, so Initiatives may repeatedly remedy related matters. However, the purpose is not the impossible micro-management of Congress. Rather, it will ensure that Congress operates, and knows that it must operate, for the people's benefit not for the benefit of Congress or Congresspersons.

2.3 For matters that in Congress require majority votes, an Initiative shall require a [double majority](#) comprising a majority of the votes in a majority of the Congressional districts and in a majority of the States. For matters that in Congress require two-thirds majority votes, an Initiative shall require a [double supermajority](#) comprising a majority of the votes in two-thirds of the Congressional districts and in two-thirds of the States. In addition, an Initiative must always pass by a simple majority of the nationwide Electorate.

The voting majorities for initiatives follow the same majorities as those that the Constitution defined and Congress currently uses. Statistical anomalies can occur in elections, so the Amendment also requires a simple majority.

2.4 A Direct Initiative shall take effect when passed by the Electorate's [double majority](#) vote and immediately after certification of the vote. A Direct Initiative shall not be subject to any [veto](#). Congress shall not change or overrule a Direct Initiative except as [permitted](#) in the Direct Initiative. A later Direct Initiative, or a nationwide [Referendum](#) with the same voting criteria as the Direct Initiative, may change or overrule an earlier Direct Initiative or Referendum.

The Initiative is a [superior](#) power because the President cannot veto Initiatives and Congress cannot overrule Initiatives except by referendum or by explicit permission in the Initiative. Congress does not currently have a [referendum process](#) in place, but may do so in the future. The Amendment gives initiatives and referenda equal precedence, the most recent prevailing.

2.5 [Article V](#) of the U.S. Constitution shall be, and hereby is, amended by adding a second clause consisting of the following two sentences: "The People shall have the power by Direct Initiatives to propose U.S. constitutional amendments to the States when passed by the Electorate's [double supermajority](#) vote. Upon certification of a passing vote, the proposed constitutional amendment

In the future, the people's fundamental right to alter their government becomes more explicit by the power to propose constitutional amendments. This requires a revision of Article V. It is best introduced as a second clause rather than alter the first clause, which is already complex and upon which many judicial

shall be as if Congress had deemed it necessary, proposed it, defined the mode of ratification, and submitted it to the several States for ratification by their legislatures or by conventions."

opinions rely.

Recent Supreme Court rulings — e.g., requiring constitutional rather than legislative process for [term limits](#) and [line item veto](#) — alone mandate inclusion of this clause.

Note that two-thirds of the Assembly must approve the Constitutional Initiative before it gets on the ballot. Then, the people must approve it by a double supermajority vote. Finally, three-fourths of the states must still ratify it. Passage by this process will therefore be a more severe test. However, whereas Congress was reluctant to disturb their *status quo*, the people will probably use this process more.

2.6 The Assembly shall submit [Indirect Initiatives](#) to Congress. Congress may modify them. Within one year after submittal, Congress shall bring it to a conclusive vote in both Houses subject to Presidential veto or refer it back to the Assembly. This shall not limit the Assembly's right to [propose](#) similar or related Direct Initiatives.

States seldom use their indirect initiative process. The Amendment's indirect process is easy to use. It will be efficient and effective to encourage Congress to take up matters without going to the time and cost of a nationwide vote.

2.7 [Advisory Initiatives](#) shall be non-binding polls of the nationwide Electorate.

Advisory (i.e., consultative) initiatives seek the people's guidance. For example, an advisory initiative may find acceptable common ground for nationwide compromise on complex issues or define the scope of a future initiative to avoid unnecessary discord.

Assembly

3.1 Members shall be the People's sworn deputies obligated to act in the best interests for all U.S. citizens and their Constitutional rights. Members shall vote their own independent un-coerced opinion after open-minded deliberation. They shall not participate in voting for any group affiliation, vote trading, sale or favor. The Assembly shall [pay](#) Members for their services.

Member's independence is important for the Assembly to function effectively. It is necessary therefore, that special interest of Members should not form association within the Assembly.

3.2 The [Assembly](#) shall [specify](#) the random-selection [method](#). It may vary its [Membership criteria](#) from all Citizens to a willing subset of Citizens, and from Citizens entitled to vote to Citizens registered to vote, by Direct Initiatives passed by a [double supermajority](#) vote. Once selected, an Assembly Member shall serve a mandatory duty of citizenship as a private person for a [term](#) specified by the Assembly. Assembly service shall have priority over other citizen's duties and work including professional, military, or business services. Failure to serve and fulfill a Member's obligations shall be punishable unless excused for excessive hardship by a Federal Court in accordance

The Assembly Rules state that a [simple random sample](#) from all Citizens entitled to vote must initially generate the list of Members. The executive branch will probably choose from the Social Security master list—removing those not eligible to vote from the selection. If a better database of Citizens becomes available, e.g., from Homeland Security, then that may be used.

Initially, all those selected must serve because it appears that permitting Members to decline for less than excessive hardship will [permit](#)

with [guidelines](#) specified by the Assembly.

[special interests](#) to influence the Assembly. Though service may sometimes be an imposition, it is a [reasonable duty](#) of citizenship.

3.3 The Assembly shall be the sole authority to [manage](#) the initiative proposal process and to select and qualify all U.S. Candidate Initiatives. The Assembly shall obtain whatever advice and assistance it deems necessary. The Assembly shall have the [right](#) to [subpoena](#) testimony and enforce that right through Federal Courts. The Assembly shall ensure that Candidate Initiatives are worthy and comprehensible and shall not [overburden](#) the Electorate. The Assembly shall specify the requirements for [citizen groups](#) and [organizations](#) that may propose Initiatives, shall define abuse of the initiative process, and shall control the ease of proposing Initiatives.

State initiatives have indicated the number of Initiatives on which an electorate can reasonably vote. There must be a single authority to control the number of proposed Initiatives, prevent abuse, and to select the most important, otherwise the process will be chaotic.

The Assembly must have powers to demand information similar to Congress to perform its check and balance function.

3.4 The Assembly shall be self-governing in accordance with its [Rules](#). It shall have the obligation and right to sustain itself. It shall obtain approval to change its [budget](#) and Members' [remuneration](#) by Direct Initiative. The U.S. Government shall deposit to the Assembly's account its total annual budget one month in advance of its initial convocation and each anniversary thereof. It shall have the power to [borrow](#) on the credit of the United States. The Assembly shall be exempt from taxes or levies. The Assembly may [incorporate](#) and dissolve in States of its choice. For legal action against them, this Amendment grants the Assembly and its Members the same protections and immunities as Congress and congresspersons.

Whereas Congress can change all congressional rules, the more important of the Assembly's rules require the approval of the People.

To give the Assembly a defined legal status, it can incorporate itself. However, litigation can breach corporate shields with relative ease, so the Members must have legal protection against potential personal attacks. Congressional protection has proved very adequate.

3.5 By Direct Initiative passed by a [double majority](#) vote of the Electorate, the Assembly may form Subsidiary Citizens' Assemblies as necessary to perform separable work. Their Members shall have the same status as Members of the Citizens' Assembly but may serve for different periods.

For example, it may eventually prove best that a separate body should provide ballot opinions to the voters about the Candidate Initiatives.

Implementation

4.1 The Congress, the President, the Courts and the States shall have power to enforce this article by appropriate legislation, executive authority, judgment, and action. They shall implement expeditiously and cooperatively the intentions of this Amendment and as outlined by the reference documents "[Government Actions](#)" and "[Assembly Rules](#)." They shall convene the Assembly within one year of this Amendment's ratification.

Implementation details are not appropriate in the Constitution and are therefore in a reference document. These [Government Actions](#) can never be sufficiently precise to ensure absolute compliance. Although the Amendment requires governments' cooperation, the Assembly can always [remedy any defects](#) by Initiative—its initial convocation must take place on time despite any defect or reason.

4.2 The Governments shall not tolerate any law, regulation or actions that impede or limit the use of U.S.

Assembly Members and their families are [private persons](#). The Amendment must protect

Initiatives or the Assembly's access to information. The Governments shall preserve, protect and defend the Assembly's independence. During the [time periods](#) specified by the Assembly, the Governments shall protect, and punish violation of, the Assembly's and each Member's and family's privacy, freedom from tampering, freedom from press, media intrusion or exploitation, and failure of duty to serve. Punishments shall penetrate shields to reach decision makers, include mandatory jail terms, and use fines based on percentage of assets.

this status. The situation is similar to a Grand Jury except that the Assembly would be even more tempting to media. The Member's status must be in the Amendment, or the Supreme Court might allow media access under [Amendment 1](#). Corporate shields and vast assets protect the most potentially dangerous offenders; they must anticipate pain of punishment equally no matter their status.

4.3 This Amendment hereby adopts the reference document "[Assembly Rules](#)" for the Assembly and binds it to follow them. This Amendment does not incorporate the reference documents "Government Actions" and "Assembly Rules."

By adopting the rules for the Assembly, they become binding on the Assembly yet not part of the Constitution. The Assembly's part B rules [limit](#) its authority to current needs and require nationwide Initiatives to change these limits.

Guarantee Clause Clarification

5.1 [Article IV, Section 4](#) of the United States Constitution shall be, and hereby is, amended by appending the following sentence: "State referendums, and United States and State initiatives selected or qualified by popular signature petition or Citizens' Initiatives Assembly, are consistent with and not a contravention of a republican form of government."

Though there are [good reasons](#) to believe that nationwide Initiatives are permissible under the Constitution, arguments can [dispute this view](#). The Supreme Court [has indicated](#) that it might regard this as a political issue falling within congressional purview. This would be unacceptable, so this Amendment must resolve the issue.

Repeal Safeguard

6.1 This Amendment pre-authorizes that the People may repeal this Amendment. [Article V](#) of the United States Constitution shall be, and hereby is, amended by appending the following two sentences at the end of the second clause: "Ten years and again twenty years after a U.S. Direct Initiative first appears on nationwide ballot, the Assembly shall include a Candidate Direct Initiative to repeal the Amendment when passed by a [double majority](#) vote. Should the Electorate choose repeal; Initiatives previously or concurrently passed shall remain as if they had originally been enacted by Congress, and Congress may then change or overrule them as regular business of the Congress subject to Presidential approval."

This Amendment is for the benefit of the People who [ordained and established](#) the Constitution. Therefore, it is up to the People to repeal the Amendment if they find it unsatisfactory. Inclusion of a graceful repeal process is reassurance to some who otherwise might be unwilling to support it. With greater difficulty, a constitutional amendment may also repeal it—as Amendment XXI repealed prohibition.

State Ratification

7.1 The article shall be inoperative unless, within seven years from the date of the submission hereof to the States, the legislatures of three fourths of the several states, or if the Congress proposes them by conventions in three fourths thereof, shall have ratified it as an Amendment to the Constitution.

Congress has consistently added this standard clause to recent Amendments.