

Constitutional Issues in the Initiative Process

This short subject summarizes initiative regulations that have been invalidated by the U.S. Supreme Court or lower courts. If the initiative process were adopted in Minnesota, regulation of the process would be restricted as indicated by this case law.

Spending limits on proponents and opponents

There is no case dealing with the validity of laws that limit how much proponents and opponents can spend on a ballot drive. However, the distinction between candidate contributions and issue advocacy in [*Buckley v. Valeo*](#) is generally understood to prevent imposing spending limits in a ballot question campaign. 424 U.S. 1 (1976).

Corporate spending bans

Corporations have a constitutional right to spend money in a ballot question campaign. [*First National Bank v. Bellotti*](#), 435 U.S. 765 (1978).

Contribution limits in ballot question campaigns

It is unconstitutional to limit the size of a contribution that can be given to a group working for or against a ballot question. [*Citizens Against Rent Control v. City of Berkeley*](#), 454 U.S. 290 (1981).

Petition signature requirements

One state and one federal court have struck down geographic distribution requirements for gathering signatures for initiative petition. The courts ruled that the requirements dilute urban voters' exercise of their constitutional right to participate in the initiative process. *Gallivan v. Walker*, 54 P.3d 1069, 1086 (Utah 2002); *Idaho Coalition United for Bears v. Cenarussa*, 342 F.3d 1073, 1076 (CA9 2003). These cases are not controlling authority in Minnesota but might influence the Minnesota Supreme Court or local federal courts in interpreting a geographic distribution requirement.

Paid petition circulators

States may not ban paid petition circulators. [*Meyers v. Grant*](#), 486 U.S. 414 (1988). A variation, banning payment per signature, has been struck down by three federal courts and upheld by another federal court in a case involving North Dakota. (Struck down: *Limit v. Maleng*, 874 F. Supp. 1138 (W.D. Wash. 1994); *On Our Terms '97 PAC v. Secretary of State of the State of Maine*, 101 F. Supp. 2d 19 (1999); *Idaho Coalition for Bears v. Cenarussa*, 342 F.3d 1073, 1165-66 (CA9 2003); Upheld: *Initiative and Referendum Institute v. Jaeger*, 241 F.3d 614 (CA8 2001).)

In the North Dakota situation, the per-signature ban was enacted following an experience with irregularities in a particular ballot campaign, so the court found the legislature was responding to a genuine problem as opposed to a theoretical possibility.

Other circulator regulations

Colorado enacted comprehensive regulations of petition circulators in the 1990s. The U.S. Supreme Court upheld parts and struck down other parts. [Buckley v. American Constitutional Law Foundation](#), 119 S. Ct. 636 (1999). The table below summarizes the case result.

State Requirement	Upheld	Struck Down
Circulators must be at least 18	X	
Circulation time limits	X	
Petition must show circulator name and address in attached affidavit	X	
Sponsors must file a monthly report showing names of proponents and ballot measure	X	
Sponsors must disclose amount paid per signature	X	
Circulator must wear ID badge with his or her name		X
Circulator must be registered voter		X
Sponsors must disclose paid circulators' names, addresses, and counties where registered to vote		X
Sponsors must file a monthly report showing (1) each circulator's name and address and (2) money paid and owed to each circulator		X

For more information: Contact legislative analyst Deborah McKnight at 651-296-5056. Also see the House Research publication *Initiative and Referendum*, February 1999.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.