

# Direct Democracy Backsliding? Quantifying the Prevalence and Investigating Causes 1960-2022\*

*John G. Matsusaka*

*University of Southern California*

Direct democracy backsliding occurs when a state alters its laws to hinder the use of initiatives and referendums. This study quantifies the prevalence of direct democracy backsliding over the period 1960-2022, and investigates its causes. I find a continuous chipping away at direct democracy throughout the period; legislatures proposed 2.3 amendments restricting direct democracy every two-year electoral cycle on average, and there were four amendments restricting direct democracy for one expanding it. Contrary to media speculation, the amount of such activity is not unusually high recently. Using time series and cross-sectional variation with state and year fixed effects, I identify two factors that triggered anti-direct democracy proposals: Republican control of the state legislature, and successful initiatives and referendums. I develop a theoretical framework to characterize the motives for direct democratic backsliding, and provide evidence suggesting that strategic motives – restricting direct democracy to induce favored policy outcomes – may be less important than philosophical preferences over processes, including objections to citizen lawmaking in principle. Anti-direct-democracy efforts were largely driven by elites – ordinary voters did not appear to share the negative orientation of their elected representatives.

July 26, 2023

---

\* Comments welcome: [matsusak@usc.edu](mailto:matsusak@usc.edu). I thank USC for financial support. I am grateful to James Snyder and Gerald Wright for providing data.

## 1. Introduction

About a decade ago, various democracy indexes began to characterize the United States as a “backsliding” democracy.<sup>1</sup> These judgements were based on perceived erosion in voting rights, declining respect for rule of law, and widespread gerrymandering. Their findings raised two important questions: is democracy in fact being eroded, that is, do the indexes accurately measure democracy, and if so, what is causing the erosion?

More recently, a different form of potential democratic backsliding has attracted significant attention, erosion in initiative and referendum rights in the states. In the wake of successful progressive campaigns to legalize marijuana, increase the minimum wage, expand Medicaid, and secure abortion rights, state legislatures have advanced laws making direct democracy more difficult to use. As with other currently contested democratic practices, Republicans are often seen as the primary drivers: “The Republican pushback against the initiative process is part of a several-year trend that gained steam as Democratic-aligned groups have increasingly used petitions to force public votes on issues that Republican-led legislatures have opposed.”<sup>2</sup>

Direct democracy is an important part of the lawmaking process in the 26 states that allow initiatives and referendums.<sup>3</sup> In recent years, ballot measures have been used to legislate on a wide array of topics from taxes and spending (income, sales), to social issues (abortion, same-sex marriage), to economic regulation (minimum wage, clean energy). In California, the amount of campaign spending on ballot measures since 2000, \$4.2 billion, was more than twice the amount spent on campaigns for the state senate and assembly, \$1.5 billion (Matsusaka 2023). A reduction in

---

<sup>1</sup> Examples include V-Dem, the Economist’s Economic Intelligence Unit, Freedom House, and IDEA’s Global State of Democracy Initiative.

<sup>2</sup> Quote from Lieb (2022) in U.S. News & World Report. Other stories in the same vein appeared in the New York Times (Williams 2018; Epstein and Corassaniti 2021) [“Republicans move to limit a grass-roots tradition of direct democracy”] and Politico (Messerly et al. 2022; Ollstein and Messerly 2023) [“Republicans across the country are working to make it harder to pass ballot measures”], and Los Angeles Times (Barabak 2023) [“Lawmakers in states are handcuffing voters and ignoring election results”].

<sup>3</sup> Direct democracy is also important at the national level in many countries (the United States not one of them), as witnessed by the United Kingdom’s Brexit referendum in 2016, Columbia’s referendum in 2016 to ratify an agreement ending a military uprising Ireland’s national referendum in 2018 on legalizing abortion, and Taiwan’s national votes in 2018 on same-sex marriage. On the importance of referendums around the world, see Altman (2011) and Matsusaka (2020, chapters 7-8).

initiative and referendum rights, if true, would constitute a significant erosion of democratic governance in the states.

The purpose of this paper is to investigate the prevalence and causes of *direct* democratic backsliding. Focusing on this one specific aspect of democracy (one that has not been studying from a backsliding perspective), sidesteps some of the interpretative issues that arise when studying broad indexes, and allows the consideration of narrowly tailored qualitative and quantitative evidence. For the quantitative analysis, I collected data on all state constitutional amendments related to initiative and referendum rights proposed by state legislatures from 1960 through 2022. Each proposed amendment was classified as either increasing or decreasing the cost of proposing and approving ballot measures. I use these data to investigate several core questions related to backsliding: (i) has there been backsliding in direct democracy over the study period; (ii) has it been growing recently; (iii) if backsliding has occurred, was it driven by Republicans; and (iv) what factors caused legislature to seek to curtail direct democracy?

A substantial part of the analysis is descriptive, to establish basic facts and patterns. I also provide two case studies that bring out some key issues. I find that proposals to restrict initiative and referendum rights (“anti-DD” proposals for short) were common throughout the period, with an average of 2.3 every two-year election cycle, and anti-DD proposals outnumbered pro-DD proposals more than four to one. I do not find an increasing trend throughout the period or in recent years; rather, anti-DD proposals peaked in the decade 1995-2004. Direct democratic backsliding appears to have been a regular feature of state politics over the last 60 years. In terms of partisan origin, I find that 62 percent of anti-DD proposals originated from Republican-controlled legislatures, 17 percent from Democratic-controlled legislatures, and the rest from divided legislatures. Pro-DD proposals, on the other hand, were about evenly divided between Republican-controlled, Democratic-controlled, and divided legislatures.

The other major part of the analysis looks at the critical question of what caused legislatures to seek to roll back initiative and referendum rights. I offer a theoretical framework and a set of arguably causal estimates. The theoretical framework divides potential explanations into two broad theories. One is that anti-DD proposals are strategic or instrumental, designed to induce a preferred policy outcome. Intuitively, revising political institutions changes the nature of the political equilibrium, and can bring about policies preferred by the legislature. In a different context, the debate over voter ID has this flavor, where Republicans may favor and Democrats oppose voter ID requirements in the belief that they disproportionately discourage turnout by Democratic voters, and thus shift outcomes in favor of Republicans. I develop a model to analyze

instrumental motives for changing direct democracy laws. Its key elements are the probability of the incumbent party retaining power, and the likelihood that the median voter in the population is aligned with the median legislator. The framework nests the amount of political competition and ideological polarization, two factors that are alleged to contribute to democratic backsliding (Grumbach forthcoming).

The other broad theory, which I subdivide into two versions, is that legislators try to restrict direct democracy because they have preferences over democratic processes in general. In the *political philosophy* version, legislator preferences stem from philosophical beliefs over the competence of ordinary citizens in political matters; they may prefer a “trustee” type of democracy compared to a “delegate” type. This preference over processes may differ by party – the trustee view is often associated with conservative political views. In the *power maximization* version, legislatures seek to maximize their own power in lawmaking, and wish to minimize the role of ordinary citizens. The implications of these versions differ: a direct preference for power should yield similar behavior by Democrats and Republicans, while philosophical differences may cause one party, likely Republicans, to be more negative toward direct democracy than the other.

The empirical strategy is to estimate panel regressions predicting the probability of an anti-DD proposal in a given state in a given year. Causal inference is supported by controlling for state and year fixed effects. Key explanatory variables are party control of the legislature and model-driven measures of strategic benefits. I find little evidence for strategic behavior: anti-DD proposals were not linked to partisan misalignment with the electorate, or expectations of losing control. The strongest finding is an unconditional tendency for Republican-controlled legislatures to seek to curtail initiative and referendum rights, which suggests that the GOP’s hostility toward direct democracy might reflect a direct preference for purely representative democracy. Aside from changes in party control, the only situational factor that led to more anti-DD proposals was a recent history of successful initiatives or referendums, which increased the chance of action by Republicans.

The paper contributes to and provides a somewhat different perspective on the literature on democratic backsliding. It offers evidence on a dimension of democracy – initiatives and referendums – that is important in practice and garners considerable attention in popular discourse, but has received little attention in the backsliding debate (and curiously does not usually appear in democracy indexes). In its focus on the states, my study is related to Grumbach (forthcoming) which constructs state-level indexes of democratic backsliding in terms of electoral processes during 2000-2018. He finds an overall downward trend beginning in about 2010, with

most of the erosion attributable to Republican-controlled legislatures. My evidence, over a much longer period, differs in that I do not find a recent anti-direct-democratic trend, but more of constant propensity throughout the period, with a quickening around the turn of the century; however, it reinforces his finding that efforts to restrict direct democracy primarily originated from Republican-controlled legislatures.

The paper also speaks to the issue of institutional change. It is common in political economy research to theorize that political leaders initiate institutional change in order to induce policy outcomes they favor. Less attention is paid to the idea that political actors might have direct preferences over political processes, independent of their policy preferences, although there is evidence that citizens have opinions about political processes (Hibbing and Theiss-Morse 2001). The paper attempts to advance the analysis of institutional versus instrumental preferences by developing a theoretical framework grounded in conventional models of direct democracy that can be used to detect strategic or instrumental motivations, and thereby separate such motivations from direct process preferences. Empirically, the paper offers evidence suggesting that Republican legislators might seek to chip away at direct democracy in part because they have direct objections to the process of citizen lawmaking, above and beyond strategic concerns. In suggesting that anti-DD proposals may be driven by preferences of Republican legislators that are not necessarily shared by their constituents, the evidence echoes Bartels' (2023) claim that anti-democratic backsliding may stem from elites not ordinary voters.

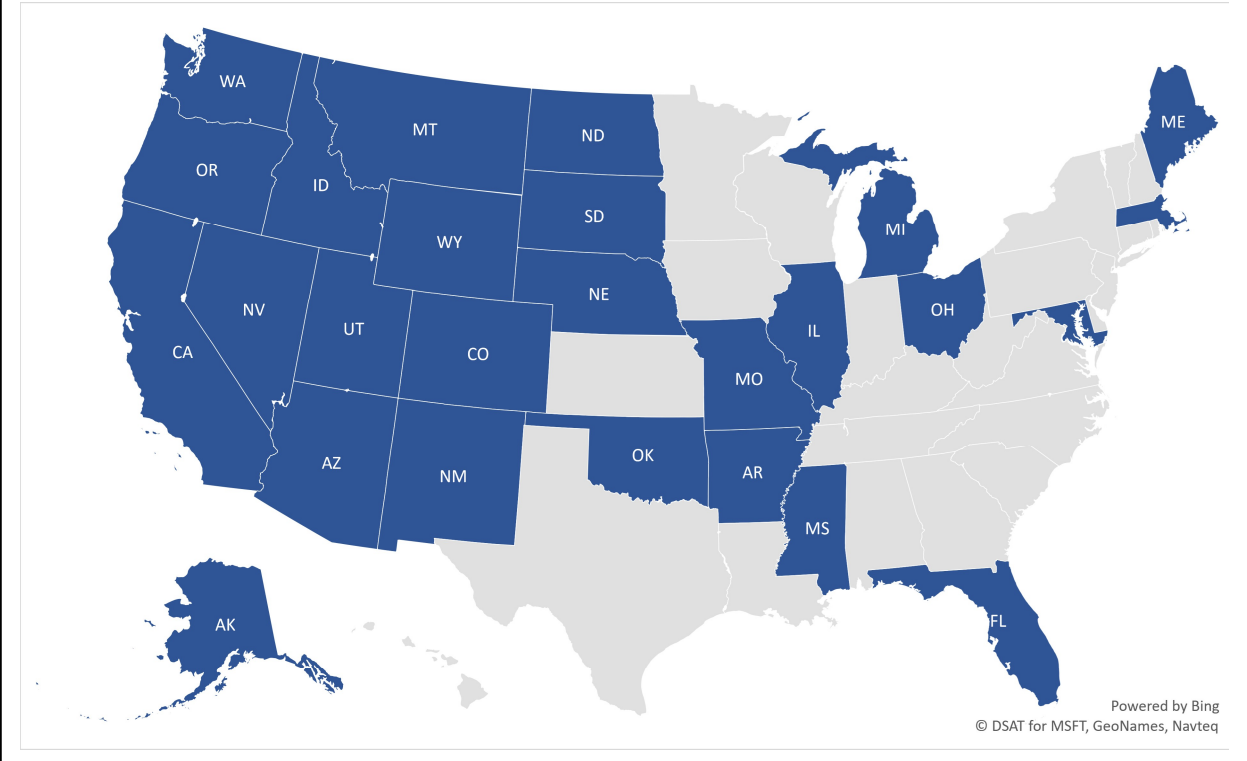
## **2. Terminology and Two Recent Examples**

It is useful to define terminology since practices vary when it comes to direct democracy. Any proposed law, constitutional amendment, or advisory issue that goes to a vote of the electorate is called a ballot "proposition" or "measure" or "referendum." A proposition can reach the ballot in several ways. If a citizen group drafts a new proposed law, amendment, or advisory issue, and qualifies it for the ballot by collecting signatures (petitioning), then it is called an "initiative." If a citizen group petitions to repeal an existing law, it is called a "veto referendum" or "popular referendum" or sometime (confusingly) just a "referendum." Most states with the initiative or veto referendum adopted them early in the 20th century during the Progressive Movement (Matsusaka 2020). Figure 1 shows the 26 states that currently allow initiatives or veto referendums.<sup>4</sup>

---

<sup>4</sup> Florida, Illinois, and Mississippi allow only the initiative; Maryland and New Mexico allow only the veto referendum; the other states allow both.

**Figure 1. States Providing Either Initiative or Veto Referendum**



In practice, most propositions on a typical ballot do not arrive there by citizen petition, but rather are placed there by the legislature, called “legislative propositions” or “legislative measures.” Legislative propositions occur not because legislators enjoy being second-guessed by voters, but because states require popular approval for certain legislative actions. All but one state requires a referendum on constitutional amendments, and 24 states require a referendum to issue bonds (Matusaka 2018), for example. All types of propositions are properly seen as forms of direct democracy in that they involve voters in directly making laws. This paper focuses on legislative measures that propose to change the initiative or referendum processes.

In order to bring out some of the nuances of efforts to reform direct democracy, this section provides a description of two recent (2023) attempts to make the initiative and referendum more difficult to use, one led by Republicans in Ohio and the other by Democrats in California. The capsule histories also motivate some of the empirical choices involved in analyzing these issues.

#### *A. Ohio’s Issue 1*

Following the 2022 elections, Republicans enjoyed supermajorities in both the Ohio House and Senate, and the governor was a Republican. This continued a period of unbroken Republican control of both branches going back to 2011.

Issue 1 had its roots in abortion policy. Like many states after the Supreme Court overturned *Roe v. Wade* in 2022, Ohio's abortion policy consisted of layers of laws that were being litigated, the most extreme of which would ban abortion once embryonic cardiac activity could be detected, usually around five or six weeks after conception, with no exception for rape and incest, but an exception for the health of the woman. Early in 2023, abortion rights groups submitted petitions for an initiative that, if approved by voters in a November 2023 election, would amend the constitution to prohibit restrictions on abortion in the first 24 weeks, roughly reinstating the status quo under *Roe v. Wade*. Public opinion surveys suggested that a policy along those lines would be supported by a sizeable majority of Ohioans.

In part to forestall the initiative, GOP state representative Brian Stewart and Secretary of State Frank LaRose sponsored a constitutional amendment that would have the effect of restricting the initiative process. The legislature passed their proposal and called a special election for it to go before the voters in August 2023. The proposal's key provisions were:

- Increased the approval threshold for constitutional amendments from 50 percent to 60 percent.
- Increased the petition threshold by requiring signatures from 5 percent of voters in all 88 counties, compared to the previous requirement of 5 percent in 44 counties.
- Eliminated a 10-day "cure period" in which petitioners could add more signatures if a preliminary count indicated that the number of valid signatures in their initial submission was deficient.

By holding the election for its own proposal before the abortion referendum, the legislative measure would have the effect of making it more difficult to pass the abortion initiative. The sponsors argued that their amendment supported democracy by safeguarding the state constitution from special interests, something that both parties should support: "We have repeatedly watched as special interests buy their way onto the statewide ballot and then spend millions of dollars drowning the airwaves to secure fundamental changes to our state by a vote margin of 50 percent plus one." They complained about out-of-state special interests buying amendments that "benefit themselves first, and the public a distant second," citing as an example a 2009 proposal sponsored by gambling interests that authorized casinos in four cities, specifying the

parcels of land for each casino that were controlled by the initiatives' sponsors, giving them a legal monopoly. Similarly, a 2015 proposal to legalize marijuana was written to give its sponsors exclusive commercial rights to operate the 10 proposed facilities. Yet at a campaign event in June, LaRose did not focus on past initiatives, instead saying, "This is 100% about keeping a radical, pro-abortion amendment out of our constitution."<sup>5</sup> Democrats were unified in opposition to the amendment.

Whether Issue 1 would help or hurt democracy depends on how one defines democracy. One could argue, as the Republicans did, that requiring a supermajority is a reasonable safeguard to ensure that changes to fundamental law enjoy a broad consensus. This follows Thomas Jefferson's (1808) admonition that "great innovations should not be forced on slender majorities," and many fully democratic constitutions create hurdles against constitutional amendments. One can also argue that requiring more signatures from across the state ensures that the propositions on the ballot reflect a broader social interest. However, what seems unambiguous is that all of the proposed changes would have the effect of raising the cost of using the initiative process, and thus making it more difficult for the people to make law.

### *B. California's AB 421*

Following the 2022 elections, Democrats enjoyed supermajorities in the California Assembly and Senate and the governor was a Democrat. As in Ohio this continued a string of unbroken one-party control of the government dating back to 2011, except in California the Democrats and not the Republicans were in charge.

California's AB 421 had its roots in several recent initiatives and veto referendums by which petitioners had delayed and sometimes repealed laws that the legislature had passed at the urging of labor unions and environmental groups. In 2020, voters approved an initiative sponsored by Uber, Lyft, DoorDash and other tech companies repealing a law prohibiting app-based drivers from working as independent contractors. In the same year, voters turned down a referendum sponsored by the plastic bag industry that would have repealed a law banning single-use plastic bags in grocery stores, but approved a referendum funded by the bail bond industry that repealed a law eliminating cash bail. The trigger event for legislators was qualification of two referendums for the 2024 ballot, one to repeal a law prohibiting oil drilling near schools and residences and the other establishing a state council to set wages for fast-food industry workers. Due to a quirk in

---

<sup>5</sup> The first two quotes are from Rep. Stewart's sponsor testimony (Stewart 2023); the third is reported in Ingles (2023).



California's referendum procedures, the laws in question were frozen as soon as the referendum petitions were submitted, even though the election itself was almost two years away.

In response, Democratic assembly member Isaac Bryan introduced AB 421, cosponsored by 22 other Democratic legislators spread across the two chambers. The goal, according to Bryan, was to protect democracy by stopping a "small, disgruntled, well-funded, well-powered set of interests that often undermine the collective will of the people of California."<sup>6</sup> Unlike Ohio's proposal, AB 421 was a statute that did not require voter approval to go into effect. All that was needed was for the legislature to approved it and the governor to sign it. At the time of writing, the bill has undergone some successful votes in the legislature but was still awaiting a final vote.

AB 421's several provisions were framed by sponsors as helping democracy, but they would have the effect of making the initiative and veto referendum more costly to employ. The most consequential provisions were:

- Required at least 10 percent of signatures for popular referendums to be collected by volunteer petitioners, rather than paid petitioners.
- Required petitioners to register with the state and undergo state training.
- Reduced the amount of time allowed to collect signatures for initiatives from 180 to 90 days.
- Created several bureaucratic rules regarding signing of petitions, such as requiring voters to initial that they had read the information about sponsors, that would have increased the chance of a petition being disqualified for procedural deficiencies.

The bill also changed the way that referendum questions would be framed on the ballot. Under the existing procedures, a "yes" vote was to approve the law in question and a "no" vote was to repeal the law. Under AB 421, a "yes" vote would be to repeal the law. This particular change is an example of a provision that does not obviously affect the cost of using direct democracy.

AB 421 was supported by environmental groups and labor unions, two central Democratic constituencies that had been on the losing end of recent ballot measure campaigns. It was opposed

---

<sup>6</sup> Quoted in Luna (2023).

by the Chamber of Commerce and other business groups, as well as most Republicans. GOP assemblyman Tom Lackey tweeted that it was a “a blatant attempt to disenfranchise Californians & help out partisan special interest backers.”

### C. Comments

These two examples inform the subsequent analysis in several ways. First, as mentioned above, the question of whether a reform actually enhances or hurts democracy is contentious – both proponents and opponents typically claim that they are the defenders of democracy against the nefarious influence of special interests.<sup>7</sup> Rather than wade into the waters of defining the essential nature of democracy, I focus instead on whether a law would have increased the cost of using direct democracy. From this perspective, both Ohio’s Issue 1 and California’s AB 421 clearly would make the cost of using direct democracy higher. I characterize laws that would increase the cost of using direct democracy as “anti-DD” laws for ease of exposition, albeit with some hesitation because I do not wish to assert a normative claim by doing so. Whether direct democracy is normatively good or bad for democracy in general is the subject of an extensive literature.<sup>8</sup>

Second, the examples highlight that there are many ways direct democracy can be impeded. The California law encumbered it at the petition stage, and the Ohio amendment acted at both the petition and approval stage. To paint a full picture of what is happening, the paper’s analysis takes great care to consider all of the different dimensions of regulation that can influence direct democracy. One contribution of the paper is to highlight the numerous ways in which direct democracy can be hobbled.

Third, although the paper focuses on direct democracy laws that that required a constitutional amendment or otherwise required a vote of the people, legislatures also can restrict the processes in ways that do not require voter approval, as in California.<sup>9</sup> The paper thus does not

---

<sup>7</sup> Probably most laws affecting democratic practices are contestable. Consider, for example, voter ID laws: opponents see them as anti-democratic in the belief that they raise the cost of voting; proponents see them as pro-democratic in the belief that they reduce fraud. (In fact, Contoni and Pons (2021) offer a convincing empirical case that neither belief is correct – voter ID neither inhibits voting nor reduces fraud.)

<sup>8</sup> For the reader interested in a discussion of the normative issues, with my attempt to reach some conclusions, see Matsusaka (2020).

<sup>9</sup> Another recent example is a South Dakota law that restricted the amount of time allowed to collect signatures. The law was struck down by a federal court on First Amendment grounds: U.S. Court of Appeals for the Eighth Circuit, *SD Voice and Cory Heidelberger v. Kristi Noem et al.*, February 17, 2023.

cover the universe of anti-direct democracy laws. At present, there is no database going back more than a few years that tracks initiative and referendum changes approved by legislatures without a referendum. It does seem safe to say, however, that the most important features of direct democracy, such as approval processes and baseline signature requirements, are usually listed in a state's constitution, so that most changes made unilaterally by the legislature usually address more administrative or procedural aspects of the process, and probably are less important.

Finally, the two examples show that both parties can be hostile to direct democracy; neither party has a monopoly on anti-initiative and anti-referendum sentiment. When legislators are hostile, they tend to offer similar justifications, invariably related to the idea that special interests are undermining the process, but sometimes expressing more philosophical concerns about the nature of representation and democracy. At the same time, their motivations sometimes appear to be instrumental in nature, intended to manipulate initiative and referendum rules in order to tilt the playing field toward specific policy outcomes they prefer.

### **3. Data**

The core data for the study consist of a list of constitutional amendments proposed by state legislatures that would restrict or, in some cases, expand initiative or referendum rights. These data were extracted from a complete data set of legislature-proposed constitutional amendments in initiative and referendum states from 1959 to 2022 that I have hand-collected over the years, consisting of more than 5,000 proposals in total, available through the Initiative and Referendum Institute (*IRI Legislative* (2023-06-22), [www.iandrinstute.org](http://www.iandrinstute.org)). From the full data set, I identified all proposals related to initiatives and referendums in the 26 states that allow initiatives or referendums, and then examined the ballot description, text, or commentary for each measure to determine its precise subject matter and whether it increased or reduced the cost of using the process (or was neutral or uncertain). I retained only proposals that potentially affected state-level initiatives, veto referendums, and legislative measures; proposals that would have affected local direct democracy were excluded. Attempts to change the initiative process were much more common than attempts to change other direct democracy processes.

Information on party control comes from the data collected by Dubin (2007) for 1959-2009, augmented by data that James Snyder provided me for 2010-2020; and information that I collected myself for 2021-2022. I corrected a few minor typographical errors in the older data if I noticed them. The partisan leaning of the state's electorate is proxied by the percentage of the two-party vote received by Democratic congressional candidates across the entire state. Data for 1976-2020

were taken from MIT Election Data and Science Lab (2017). I added information from 1960-1974 from various editions of Statistical Abstract of the United States, and 2022 from online sources. The number of past initiatives and referendums, whether they passed or not, and votes on ballot propositions throughout the period came from the *IRI Initiatives* and *IRI Legislative* databases. Legislative roll-call votes on direct democracy related amendments were taken from official legislative records when available. Information on roll-call votes during 1999-2000 and 2003-2004 were kindly made available by Gerald Wright, from his project Wright (2007).<sup>10</sup>

#### **4. Descriptive Findings**

I begin by establishing some basic facts about legislative attempts to restrict direct democracy. Table 1 lists the number of proposals by subject matter and whether they tried to make initiatives and referendums more difficult (anti-DD) or easier (pro-DD) to use. If a state adopted direct democracy during the sample period, I include it in the study group the year after adoption. The most frequent topic was signature requirements, with 22 proposals seeking to increase signature requirements or impose geographic distribution requirements, four proposals seeking to ease signature requirements, and two proposals that changed signature requirements in a way that did not appear to make petitioning easier or more difficult. Other common topics were restrictions on the subjects that could be addressed, tightening the time period allowed to collect signatures, and the vote threshold for approval. Overall, 70 legislative amendments proposed to restrict direct democracy, 17 proposed to enhance it, and 13 were neutral or ambiguous in effect. Two observations follow: historically attempts to restrict democracy have been common, averaging more than one per year across the states for the last 60 years (2.3 per year over each two-year electoral cycle); and legislatures have been much more likely to try to restrict than expand direct democracy.

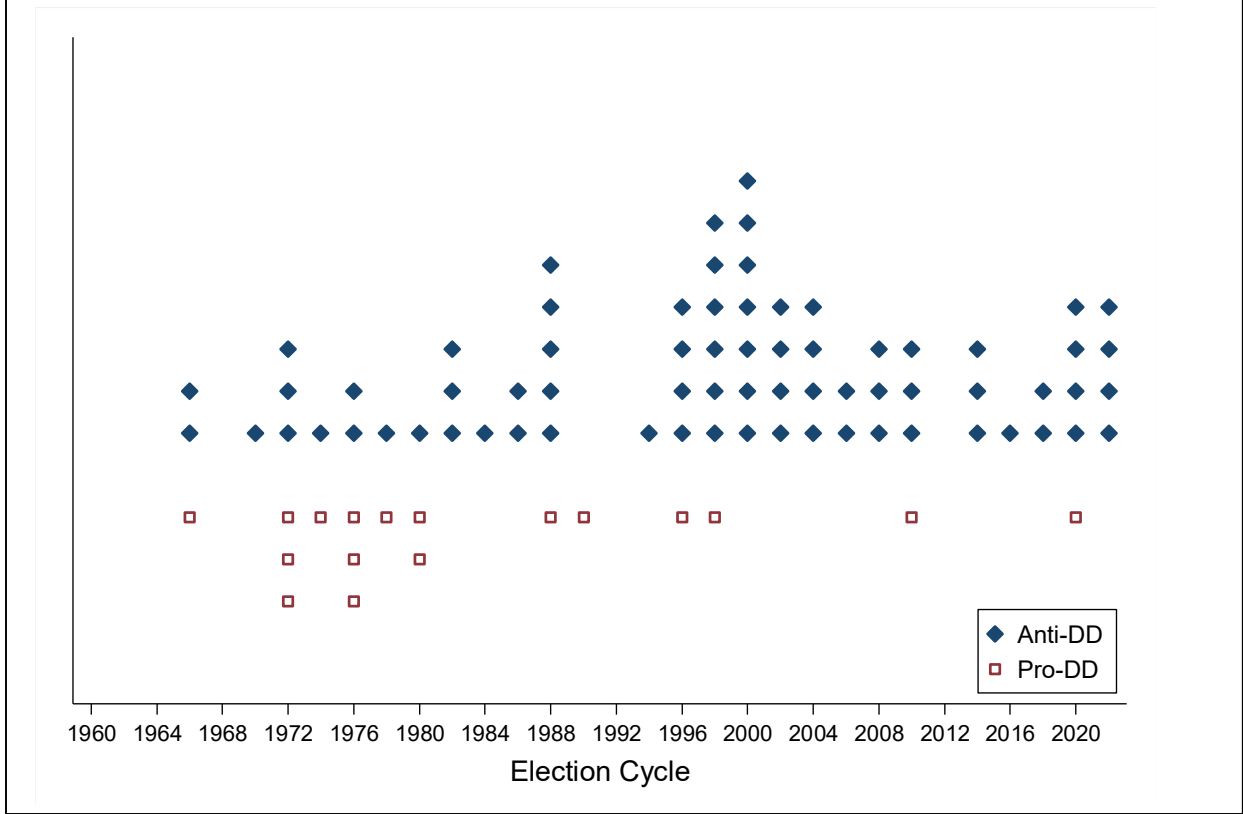
Voters did not always go along with legislative proposals, especially those restricting the processes. They rejected 40 percent of the anti-DD proposals, while accepting 85 percent of the pro-DD proposals. Voters appear to have been more favorably inclined toward direct democracy than their elected representatives were.

Recent news coverage suggests that anti-DD activity has surged across the country in the last few years, largely due to Republican legislatures. Figure 2 examines the first part of this claim,

---

<sup>10</sup> Roll call vote data are difficult to acquire except for very recent years. Most states provide electronic records of voters for the last decade or so, usually as text but in some cases as video records. I used those where possible, supplemented with information from 1999-2000 collected by Wright (2007).

**Figure 2. Number of Proposed Amendments Related to Direct Democracy**

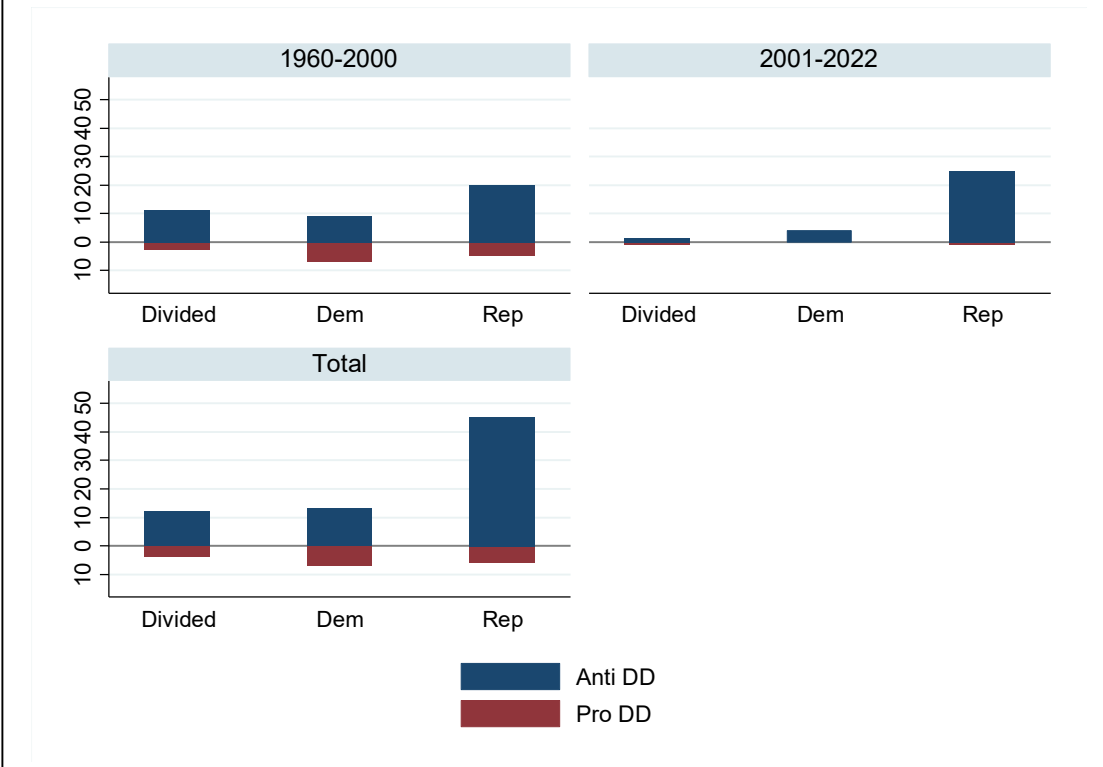


that the number of anti-DD proposals has been unusually high recently. The figure plots the number of pro-DD and anti-DD proposals by two-year electoral cycles. We do not see a general upward trend across the period, nor is there much evidence for an unusual surge in the last few years. The most concentrated period of anti-DD proposals was approximately 1995 to 2004. Proposals to expand direct democracy were noticeably less common than anti-DD proposals, and they have almost gone extinct in the 21st century.

To examine the partisan orientation proposals, I divide states into three groups, those in which Democrats had a majority in both houses (“Dem”), those in which Republicans had a majority in both houses (“Rep”), and those in which control was divided.<sup>11</sup> Figure 3 shows the number proposals related to direct democracy that originated from each of the three types of states. Looking first at bottom panel with the totals, the preponderance of anti-DD proposals from Republican-controlled legislatures, 45 in all, stands out. Democrats and divided legislatures accounted for 13 and 12 such amendments each. In terms of pro-DD amendments, the number was

<sup>11</sup> If a chamber was evenly divided, I assigned control to the party that controlled the tie-breaker, such as the Lieutenant Governor in some states, or assigned it as being controlled by neither party if there was no tiebreaker. If party control flipped within a cycle, control was assigned to both parties.

**Figure 3. Number of Proposed Amendments by Party Control**



almost identical by party control. As a descriptive fact, then, we can confirm that most anti-DD proposals, by a large margin, have come from Republican legislatures. However, from this information alone we cannot conclude that Republican legislatures were more likely to make anti-DD proposals or that election of Republicans was more likely to lead to anti-DD proposals: it could be that there were many more Republican legislatures during the period, or it could be that states with latent anti-DD sentiment were more likely to elect Republicans. I turn to this issue below.

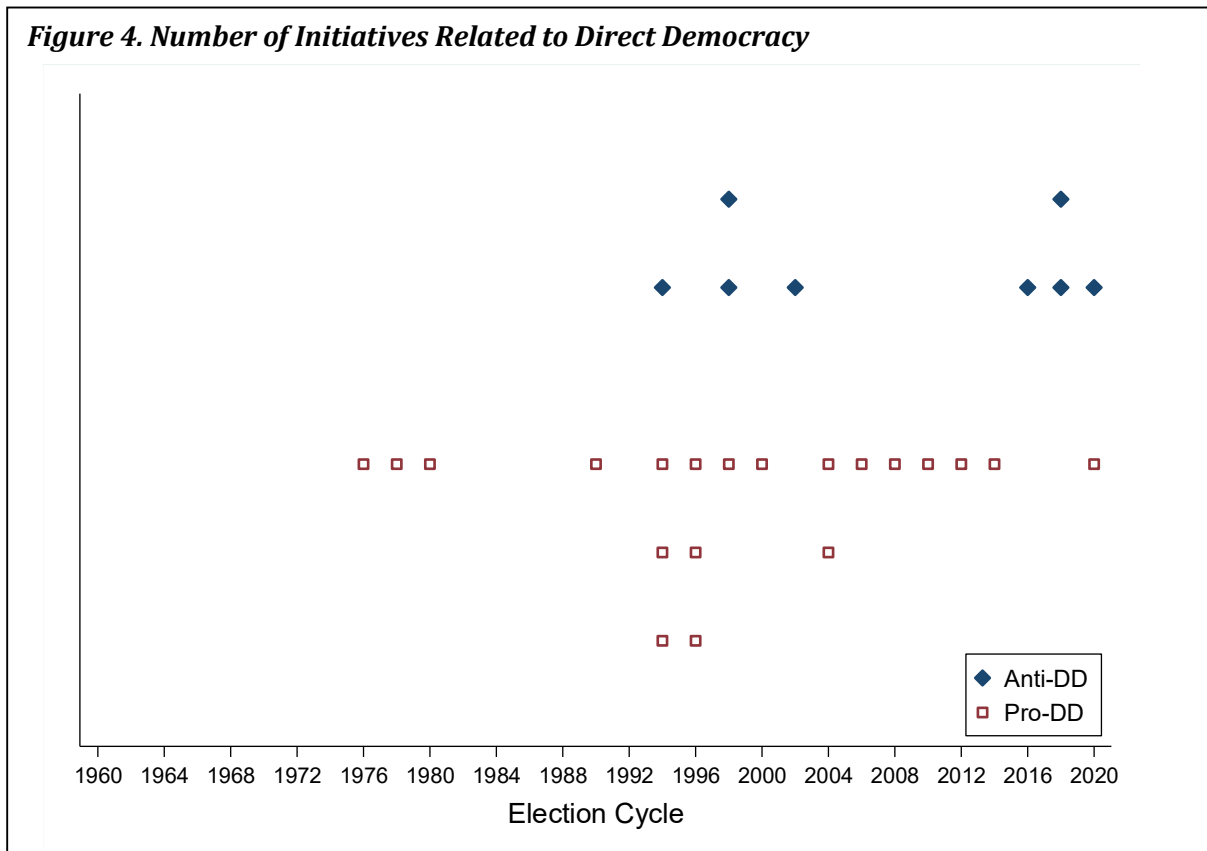
We might wonder if the partisan pattern has changed over time. Party positions have evolved over time on a wide array of issues, as has the tenor of public discourse about initiatives. In the 1970s and early 1980s, direct democracy was associated with the tax revolt, a typically conservative issue, and other conservative issues were prominent in the 1980s and 1990s such as roll-backs on racial preferences/affirmative action, restrictions on benefits to illegal immigrants, and get-tough approaches to crime such as three-strikes laws. Some of that conservatism carried over into the 21st century with laws banning same-sex marriage, but in general, progressive issues have become more prominent in the 21st century, such as increasing the minimum wage, marijuana legalization, and Medicaid expansion.

Figure 3 also shows the number of proposals by party control for the years before and after 2000. The number of anti-DD proposals from Republican legislatures was similar in the two

periods. The interesting difference is that Democratic and divided legislatures largely stopped proposing anti-DD amendments after 2000. In the pre-2000 period, divided legislatures proposed 11 amendment restricting direct democracy compared to only a single one after 2000. Similarly, the number attributed to Democrats fell from 9 to 4. While Democrats and Republicans seemed to share a hostility toward direct democracy in the 20th century, in the 21st century this became a unique trait of the GOP.

A final descriptive exercise is to count the number of anti-DD and pro-DD proposals that originated from initiatives rather than the legislature. This provides a comparator or benchmark for whether legislative proposals were more or less hostile to direct democracy than proposals that originated with citizens themselves. The proclivity of legislatures to undermine direct democracy could simply be a response to pressure from citizens to curtail the processes, for example.

Figure 4 plots the number of anti-DD and pro-DD initiative proposals, analogous to Figure 2. Overall, the total number of initiatives related to direct democracy (30) was much less than the number of legislative proposals related to direct democracy. Legislatures were far more active in trying to reshape the initiative and referendum. Also, in stark contrast to legislative proposals, initiatives were much more likely to propose expanding than restricting direct democracy, with 20 pro-DD initiatives versus 8 anti-DD initiatives and 2 mixed or neutral proposals that are not shown.



Interestingly, however, voters approved only 6 of the 20 pro-DD initiatives but 5 of 8 anti-DD initiatives. Although activists sought to bolster direct democracy, the electorate did not usually go along with them. The figure also shows that initiatives related to direct democracy were exceedingly rare before the 1990s.

## 5. Theory: Strategic Motives versus Process Preferences

The next part of the analysis seeks to understand the reasons – or causal factors – that lead legislatures to restrict direct democracy. To bring out the theoretical issues and structure the empirical analysis, I focus on two broad types of explanation. The first type is that proposed changes are strategically or instrumentally motivated to influence policy outcomes. In the Ohio Issue 1 example, Republicans were fairly explicit that their intention was in part to prevent adoption of a liberal abortion policy. The second type of explanation is that legislatures have direct preferences over democratic processes. I develop a formal model of the strategic theory that can incorporate competition and polarization as explanatory factors. Although it is analytically useful to contrast the explanations, they are not mutually exclusive.

### A. *Strategic Motives*

The model considers an incumbent legislature that chooses direct democracy procedures so as to influence a policy decision that will be made in the future. At time  $t = 0$ , the incumbent legislature designs the institution by choosing the cost of using direct democracy  $c > 0$ , where a high cost implies restricting the process, as shown shortly. For simplicity, I assume that the legislature's proposal goes into effect without requiring a popular vote. After the legislature chooses the cost, an election is held in which a new legislature is selected; and at the same time the median voter's policy preference may evolve. At time  $t = 1$ , the new legislature chooses the policy, and citizens have the opportunity to use direct democracy to override the policy choice if they pay the cost  $c$ . If they override, the preferences of the median voter prevails.

The party in control of the legislature (L), the party not in control (O), and the median voter (V) have spatial preferences over the future policy outcome  $x \in \mathbf{R}$ . The party in control has an ideal point of  $\theta$ ; the party not in control has an ideal point of  $-\theta$ , and the median voter has an ideal point of  $m \in \{-\theta, \theta\}$ , with preferences defined as absolute distances, so that  $u_L = -|x - \theta|$ ,  $u_O = -|x + \theta|$ , and  $u_V = -|x - m|$ . An increase in polarization is represented by an increase in  $\theta$ .

When the election is held between  $t = 0$  and  $t = 1$ , the incumbent party is returned to power with probability  $p$  and the opposition party takes power with probability  $1 - p$ . Also,



between the two periods, the position of the median voter randomly evolves to  $m = \theta$  with probability  $q$  and  $m = -\theta$  with probability  $1 - q$ . If the parties are competitive then  $p \approx 0.5$ ; in a one-party state  $p \approx 1$ . This formulation implies that L faces two types of uncertainty when it chooses the institutional structure: uncertainty over which party will be in power next period, and uncertainty over the preference of the median voter. In the special case where the median voter chooses which party controls the legislature,  $p = q$ . One reason that the median voter might not control the legislature is gerrymandering (Gilligan and Matsusaka 2006).

Solving the model backwards beginning with  $t = 1$ , the new legislature chooses the policy, keeping in mind the possibility of being overridden by direct democracy. If citizens use direct democracy, they impose a policy equal to the median voter's idea point,  $x = m$ . This type of game is familiar from the direct democracy literature (Gerber 1996; Matsusaka and McCarty 2001): the solution is for the legislature to choose a policy that makes the median voter indifferent between the chosen policy and the cost-adjusted direct democracy policy, which prevents direct democracy from being used. Formally, if the legislature's ideal point is  $\theta$ , then it chooses  $x = \theta$  if  $m = \theta$ , and  $x = -\theta + c$  if  $m = -\theta$ . If the legislature's ideal point is  $-\theta$ , then it chooses  $x = -\theta$  if  $m = -\theta$ , and  $x = \theta - c$  if  $m = \theta$ .

At time  $t = 0$ , the incumbent legislature's expected payoff as a function of  $c$  is:

$$E[u_L(c)] = -p \cdot (1 - q) \cdot (2\theta - c) - (1 - p) \cdot q \cdot c - (1 - p) \cdot (1 - q) \cdot 2\theta.$$

The change in the incumbent legislature's expected payoff from a change in the cost of using direct democracy can then be expressed as:

$$(1) \quad \frac{dE[u_L]}{dc} = p(1 - q) - (1 - p)q.$$

The first term is positive, and corresponds to the benefit (for the legislature) of hamstringing direct democracy in the event that the incumbent party retains power but the median voter is not aligned. The second term is negative, and corresponds to the cost of hamstringing the incumbent party's own partisans in the event that the incumbent party loses control. The incumbent legislature can be better off increasing or decreasing the cost of using direct democracy, depending on the probabilities  $p$  and  $q$ .

The legislature gains from increasing the cost direct democracy when its probability of staying in power is high *and* the probability of the voters aligning with the other party is high. The

legislature gains from decreasing the cost of direct democracy when its probability of staying in power is low and the probability of voters aligning with the opposition party is low. The empirical prediction is that if a legislature is motivated by strategic policy considerations, its incentive to restrict direct democracy is increasing in  $p(1 - q)$  and decreasing in  $(1 - p)q$ . I discuss how to measure these quantities below.

Equation (1) has implications for two factors that have received attention in discussions of democratic backsliding, competition and polarization. Competition is proxied by  $p$ , with the greatest competition when  $p \approx 0.5$ . It is straightforward to show that  $\frac{du_L}{dc}$  is strictly increasing in  $p$ : the more likely the incumbent party is to retain power, the more likely it is to increase the cost of direct democracy. This creates a highly conditional effect of competition: starting in the most competitive situation ( $p = 0.5$ ), the incumbent party has its strongest desire to lower  $c$ ; as competition declines in its favor ( $p > 0$ ), the incumbent wishes to increase  $c$ ; but as competition declines in the other party's favor ( $p < 0.5$ ), the incumbent wishes to lower  $c$ . Intuitively, what matters is not how competitive the state is, but how likely the incumbent party is to retain power. More generally, the model suggests that competition may not have a monotonic effect on democratic backsliding.

In terms of polarization, note that  $\theta$  does not appear in equation (1), which means that changes in polarization do not affect the incentive to restrict direct democracy in this model. This happens because of countervailing forces. When polarization increases, the incumbent party has a greater incentive to restrict democracy in the event that it retains power, but it has a greater incentive to encourage democracy in the event that it loses power. Changing the cost has a symmetric effect on these two payoffs, which nets out to zero.

Note that in the special case where the legislature always represents the voters,  $p = q$ , then  $\frac{dE[u_L]}{dc} = 0$ ; the legislature is indifferent about the cost of using direct democracy. The reason is that if the incumbent party retains power, voters will be on its side and not challenge its decisions; while if the opposition party acquires power, voters will be on the opposition's side and again not challenge their decision. Direct democracy is then irrelevant in this case. We therefore expect to see more efforts to change the cost of using direct democracy in states where the median voter and the legislature may not be aligned, such as states that are highly gerrymandered.

Strategic rationales have been suggested in previous research to explain adoption of the initiative and referendum in the early 20th century. Smith and Fridkin (2008) argued that greater competition – in the sense of a reduction in the size of the legislative majority – forced legislatures to become more pro-direct democracy because that is what the median voter wants. If  $p$  is a proxy

for the majority, the analysis above supports this conclusion. Bridges and Kousser (2011) argued that Progressives supported adoption when they believed that the median voter would be on their side but the legislature was not. This is very similar to the intuition captured in the model above, which emphasizes the potential disconnect between the legislature's and the median voter's preferences.

#### B. *Process Preferences Regarding Direct Democracy*

A different reason that legislators may want to restrict direct democracy is that they have direct preferences about the process of lawmaking by voters. This sort of explanation is less common in the scholarly literature, which generally favors strategic policy-based theories. There are two versions. The *political philosophy* version is that elected officials have philosophical beliefs about what form of democracy is best, and believe that democracy is harmed by initiatives and referendums. According to GOP governor Paul LePage of Maine, "Referendum is pure democracy, and it has not worked for 15,000 years."<sup>12</sup> Objections to direct democracy as a matter of principle go back to the Madison's Federalist No. 10. At its root, these objections stem from a concern about the ability or ordinary citizens to make policy decisions, and a fear that they are easily manipulated by special interests.

We could formalize a direct preference regarding direct democracy by assuming that the legislature's payoff function was  $u_L = -|\phi - c|$ . In this framework, legislatures have an ideal cost  $\phi$ . They prefer increasing the cost if the current cost is below the optimum, and decreasing the cost if it is above the optimum. Strategic considerations play no role. A challenge with this theory is that it runs the risk of being tautological – the legislature wants to reform direct democracy because it has a preference for reforming democracy. To make it more parsimonious, we can assume that parties have different underlying philosophies about democratic processes – if this is the case, then they are likely to have different direct preferences over direct democracy. Empirically, this would manifest as an enduring effect of party on efforts to restrict direct democracy, independent of strategic considerations.

The *power maximization* version of process preferences is simply that legislators prefer processes in which power remains in their hands, and not in the hands of the people. Formally, this is case  $u_L = c$ ; the higher is  $c$ , the better. This version is distinct from the political philosophy view

---

<sup>12</sup> Quoted in Villaneuve (2018). LePage made the comments in the context of a discussing about making signature requirements more difficult. He also expressed frustration with special interests, a common complaint among those opposed to direct democracy.

in that there is no reason to believe that parties differ in their desire for power. As Arkansas state senator Bryan King, in opposing an attempt by his party to limit initiatives, explained: “I don’t think this is a party issue. This is a control issue. It’s trying to fence off challenges to whatever decisions a government makes.”<sup>13</sup> The implication of this version is that both parties will seek to restrict direct democracy when they are in power.

### *C. Empirical Implications*

In practice, it seems likely that all of the motives discussed above come into play for some legislatures at some points of time. So the empirical task is not so much to completely reject any of the motivations but rather to evaluate which have the most explanatory power. Table 2 summarizes the empirical implications of the various theories.

The first implication (I1) concerns the ability of party control to predict anti-DD proposals. The political philosophy theory implies that different parties have different preferences over citizen lawmaking. The strategic theory implies that legislatures adjust direct democratic institutions to achieve policy ends, but this does not lead to a general tendency to support or oppose citizen lawmaking. The power maximization theory similarly does not predict a difference by party.

The second implication (I2) concerns the predictive power of transitory political developments, such as the incumbent party anticipating an electoral defeat, or an anticipated shift in the position of the median voter. The instrumental theory predicts that such factors should drive anti-DD proposals, and in the specific form of (1). The political philosophy and power maximization theories posit that legislatures are guided by their preferences over processes, which are not driven by short-term political changes in political configurations or policy preferences.

The third implication (I3) concerns the polarization of roll-call votes on anti-DD amendments. The strategic theory predicts that roll-call votes will be polarized on party lines because advancing the policy goals of one party undercuts the policy goals of the other party. The political philosophy theory also predicts polarization since implementing one party’s preferred process works against the other party’s preferred process. In contrast, the power maximization theory does not predict party-line voting since both parties have a preference for processes that sequester ordinary citizens from the lawmaking process.

---

<sup>13</sup> Quoted in Zernike and Wines (2023). Bryan further comments that the desire for control has been constant, regardless of which party ruled the state.

## 6. Evidence on What Motivates Legislatures to Restrict Direct Democracy

Guided by the preceding theoretical discussion, I next examine to what extent partisan control of the legislature affects anti-DD proposals. The basic regression is of the form:

$$(2) \quad PROP_{s,t} = \beta_0 \cdot DEM\_CTRL_{s,t} + \beta_1 \cdot REP\_CTRL_{s,t} + \alpha_t + \gamma_s + u_{s,t},$$

where the dependent variable *PROP* is a dummy equal to 1 if there was a direct democracy related proposal in state *s* in the two-year election cycle *t*, and the explanatory variables are dummies equal to 1 if Democrats controlled both chambers of the legislature and if Republicans controlled both houses, with divided control the omitted category. Time is partitioned into two-year periods (e.g., 2021-2022) to allow for the fact that a legislature may propose an amendment that does not come to a vote until the next general election, which may be the next year. I do not take into account the party of the governor because in the sample states the legislature can propose constitutional amendments without approval of the governor. Some states require a supermajority vote of the legislature, something I take into account after presenting the main results. To address concerns with spurious correlation and provide a basis for drawing causal conclusions, some regressions include fixed effects for year and state. When including fixed effects in a context like this where the explanatory variables may be slow moving, there is a risk that the fixed effects strip out valuable information. Mindful of the limitations of the different approaches, I typically report results both with and without fixed effects.

Table 3 provides summary statistics, where the unit of observation is a state-election-cycle. To put the subsequent estimates in context, note that anti-DD proposals occurred in 7 percent of state-cycles and pro-DD proposals occurred in 2 percent of state-cycles. Party control throughout the period was roughly evenly divided, with a lean toward Democrats: Democrats controlled both houses in 45 percent and Republicans in 39 percent of state-cycles. Democrats had a majority in both houses large enough to propose amendments without the other party (“supermajority”) in 29 percent of state-cycles, and Republicans had a so-defined supermajority in 20 percent of state-cycles.

Table 4 reports estimates of regression (2). Panel A, in which the dependent variable indicates whether there was an anti-DD proposal in the state in a given cycle, shows that states controlled by Republicans were more likely to propose an anti-DD amendment. In column (1), with no fixed effects, the coefficient on Republican control means that Republicans were 8.32 percent more likely to propose an anti-DD amendment compared to the omitted category of divided control.

The coefficient is statistically significant at the 1 percent level. The coefficient on Democratic control indicates a 0.26 percent greater chance of an anti-DD amendment, not statistically different from zero. Columns (2)-(4) add various combinations of election cycle and state fixed effects. Column (4), with year and state fixed effects, arguably the most convincing causal estimates, indicate that GOP legislatures were 8.92 percent more likely to propose anti-DD amendments, and Democrats were essentially no more or less likely to launch such proposals than divided governments. The message is qualitatively similar with or without fixed effects: Republican control of the legislature led to more anti-DD proposals while Democratic control did not. This evidence is what would be expected if partisan attitudes toward direct democracy stemmed from political philosophies.

Panel B of Table 4 reports analogous estimates for the probability that a pro-DD amendment was proposed. All of the coefficients are small and statistically insignificant for both party control variables: there is no evidence that either party was more or less likely to propose amendments enhancing direct democracy. If Republicans proposed more anti-DD amendments than Democrats because of differences in political philosophies, we might have expected to see a partisan difference in pro-DD policies. One possible explanation is that current levels of initiative and referendum availability are at the optimum for Democrats and above the optimum for Republicans.

One concern with the estimates in Panels A and B is that control of the legislature is not sufficient to propose constitutional amendments in states that require a supermajority vote. To allow for this possibility, Panels C and D re-estimate the same regressions using a dependent variable that indicates if a party had the required supermajority. The findings are qualitatively similar. In Panel C, we again see that Republican control led to more anti-DD proposals, and the magnitude remains in a similar range of 7.92 to 9.24 percent. There is no significant connection between Democratic control and anti-DD proposals. Panel D shows little evidence for party control on pro-DD amendments, except for the somewhat anomalous coefficients on Republican control in column (2) and Democratic control in column (3), which are statistically different from zero at the 10 percent level, and probably false positives.

Having established that Republican control is a strong and robust cause of anti-DD proposals, the next question is whether this stems from a philosophical opposition to direct democracy by the GOP, or whether it just happened that Republican legislatures were more likely to find themselves in situations where they could advance their policy goals by strategically raising

the cost of initiatives and referendums. To explore this, I estimate a set of regressions that add variables capturing strategic factors. The baseline regression is:

$$(3) \quad PROP_{s,t} = \beta_0 \cdot DEM\_CTRL_{s,t} + \beta_1 \cdot REP\_CTRL_{s,t} + \beta_3 \cdot [p(1 - q)]_{s,t} + \beta_4 \cdot [(1 - p)q]_{s,t} + \beta_5 \cdot \#I\&R_{s,t} + \beta_6 \cdot \%DEM_{s,t} + \alpha_t + \gamma_s + u_{s,t},$$

where  $[p(1 - q)]$  and  $[(1 - p)q]$  are empirical analogs for the instrumental terms in equation (1).

The terms  $p$  and  $q$  cannot be directly observed; I proxy them by ex post outcomes, under the assumption that legislatures are able to form unbiased expectations about future developments (although their estimates may be noisy). For  $p$ , the probability that the incumbent party remains in power during the next session, I use a one-cycle-ahead dummy for whether the party retained power. For  $q$ , the probability that the median voter is aligned with the incumbent party next session, I use a one-cycle-ahead dummy variable for whether the majority of congressional votes were for the incumbent party's candidates, a proxy for the partisan orientation of the median voter. In plain English,  $[p(1 - q)]$  is the probability that the legislative majority party remains in control but the median voter is aligned with the other party; and  $[(1 - p)q]$  is the probability that the incumbent party loses control but the median voter remains on its side. A high cost of direct democracy helps advance the policy goals of the incumbent party in the first case and hurts its goals in the second case, so if strategic motives are important  $\beta_3 \geq 0$  and  $\beta_4 \leq 0$ . If the GOP's higher propensity to make anti-DD proposals is entirely strategic, then including the instrumental proxies should rob  $\beta_1$  of significance.

The other explanatory variable related to instrumental motives is  $\#I\&R$ , the number of successful initiative and referendum proposals in the preceding cycle. An initiative is defined as successful if voters approved it, and a referendum is successful if voters repealed the law that was being challenged. The strategic theory does not directly imply the importance of this variable, but we might expect it to matter if, for example, it conveys information about the real cost of using direct democracy. A legislature that dislikes direct democracy may not wish to invest in reforming it when it is not being used, but once it becomes an active option, the legislature may respond. More abstractly, if a legislature considers the cost of direct democracy to be at a local optimum, a sudden increase in usage may suggest that the cost has dropped below the optimum. In this case,  $\beta_5 \geq 0$ .

The final explanatory variable  $\%DEM$  is the percentage of votes cast in the previous cycle for Democratic congressional candidates. As mentioned, this variable is a proxy for the preferences of the median voter. I include it to explore the possibility that the parties are not driving the

process, but rather are responding to demands from the electorate. This helps get at the question of whether backsliding is driven by elites, as Bartels (2023) argues for Europe, or by ordinary citizens.

Table 5 reports the estimates pooling all legislatures. To economize on the information displayed, I report only regressions without fixed effects and with both cycle and state fixed effects. Columns (1) and (2) contain perhaps the key regressions, where the dependent variable is a dummy if the legislature proposed an anti-DD amendment. One important finding is that even with the strategic proxies included, the coefficient on Republican control remains sizeable, similar in magnitude to previous estimates, and statistically significant. Of the strategic variables, the signs of those related to loss of control and the position of the median voter are not reliably consistent with theory, and never statistically significant. The number of successful initiatives and referendums in the previous cycle is a significant predictor: an additional successful initiative or referendum led to a 1.89 percent increase in the probability of an anti-DD proposal in the subsequent legislative cycle in column (1), and a 1.46 percent increase in column (2). This magnitude is not enormous but nontrivial in relation to the baseline 7 percent probability of an anti-DD proposal in a given cycle. The coefficient on percent of Democratic voters is negative, suggesting that states with Democratic voters were less likely to see anti-DD proposals, but not reliably different from zero at conventional levels of significance. The fact that party control but not party of the median voter matters suggests that political elites were attempting to restrict direct democracy for their own reasons, not in response to citizen demands. Columns (3) and (4) report analogous regressions for pro-DD proposals – none of the coefficients are particularly large in magnitude or statistically distinguishable from zero.

Table 6 reports the same regressions estimated separately for Republican-controlled and Democrat-controlled legislatures. This allows the effect of strategic variables to vary by party. For Republican legislatures in Panel A, the pattern is similar to the full sample, except that the coefficients on successful initiatives and referendums are quite a bit larger. We can conclude that an important trigger for GOP legislatures to launch anti-DD amendments was a recent history of successful initiative and referendums. In this sense, the case of Ohio's Issue 1 discussed above can be seen as representative. The coefficients in the pro-DD proposal regressions remain statistically insignificant.

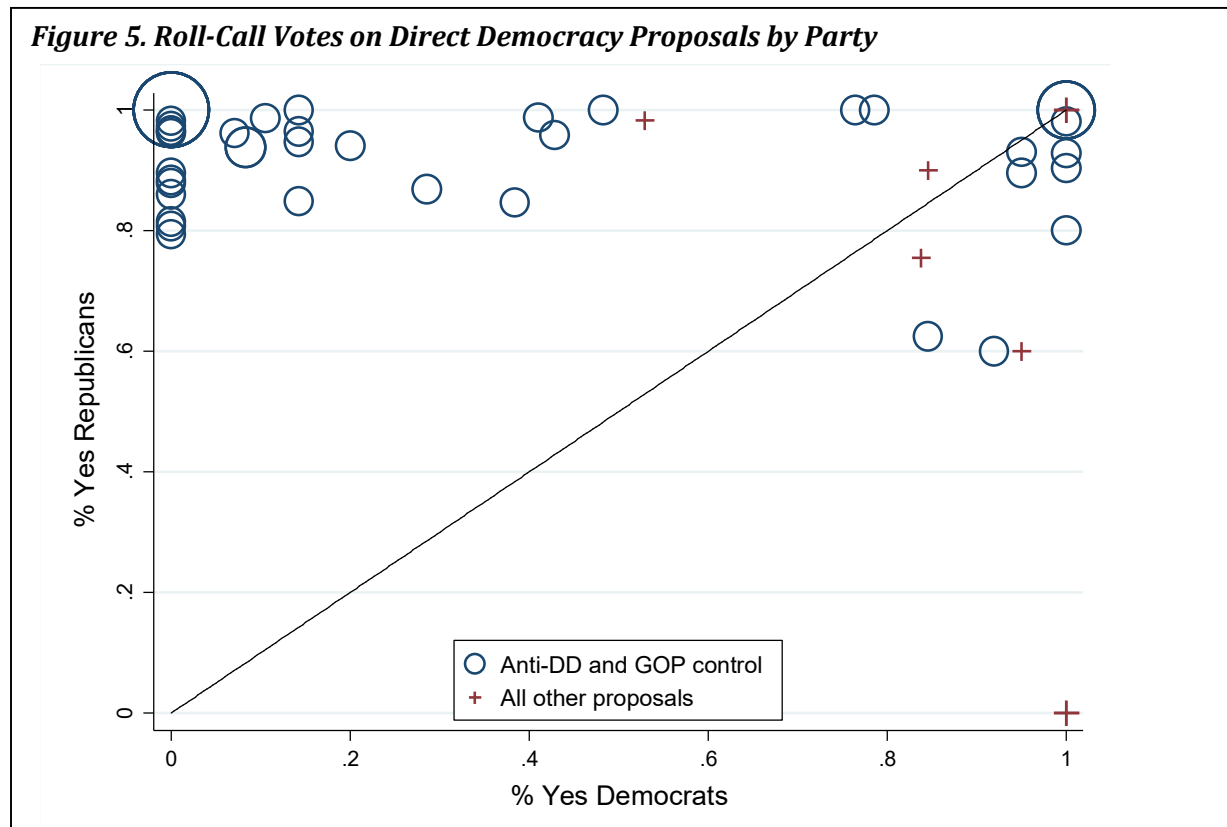
The story is different for Democratic legislatures in Panel B. Past initiatives and referendums do not predict proposals related to direct democracy, either pro or con. Nor do the strategic variables matter. Altogether, the regressions offer little insight into what motivated Democrats to propose anti-DD amendments, perhaps because they did so infrequently.



Taken together, the regressions in Tables 5 and 6 offer only limited support for strategic motives. Republican legislatures seem to have reacted to successful initiatives and referendums by attempting to restrict the processes. Democratic legislatures rarely attempted to restrict direct democracy, and when they did it was unconnected to past initiative or referendum success or shifting political fortunes.<sup>14</sup>

A third implication of the theories concerns roll-call voting on direct democracy proposals. If direct democracy reform was guided by distinct political philosophies or instrumental considerations, then we should observe Democratic and Republican legislatures being on opposite sides. If anti-DD amendments were motivated by a simple desire to concentrate power in the hands of the legislature and keep it away from the people, then the parties should be approximately equally likely to support anti-DD proposals.

To examine this, I collected roll-call votes for 55 chamber-laws during the period 2000-2022. For each proposal and each chamber, I calculated the percentage of Democrats and the percentage of Republicans that voted in favor, excluding legislators that did not vote. Figure 5 plots the approval rates for Republicans against the approval rate for Democrats, with the size of



<sup>14</sup> I also explored if the propensity to propose was connected to misalignment between the party controlling the legislature and the party of the median voter, but not reliable relation.

markers indicating the frequency of the observation. If the parties had the same perspective on these laws, the dots would lie along the 45-degree line, indicated in gray. If the parties were polarized, most of the dots would be at (0,1) and (1,0).

As can be seen, few proposals lie along the 45-degree line, although there is a cluster that attracted support from both. Of these proposals, most were from Republican-controlled legislatures and were anti-DD, indicated with black circles. The largest cluster of points is near (1,0), Republican-promoted anti-DD proposals that attracted little support from Democrats. It would be interesting to examine a large sample of proposals from Democratic-controlled legislatures, or pro-DD proposals, but this sample has too few to enable reliable inferences about them. The evidence here lends some support to the political philosophy and strategic theories but does not support the simple power monopolization theory.

## 7. Voters and Proposals to Restrict Direct Democracy

To round out the analysis, this section explores the votes of ordinary citizens when called upon to approve or reject proposals related to direct democracy. We have already observed that although voters approve proposed amendments more often than not, they do not rubber stamp them, especially anti-DD proposals. As with legislatures, the analysis here focuses on potential motivations, in particular, political philosophy and strategic considerations. I focus on anti-DD proposals because they were most common and that is where partisan differences for legislatures appear.

I estimate regressions of the form

$$\%Yes_{i,s} = \beta_0 \cdot \%DEM_{i,s} + \beta_1 \cdot X_{i,s} + \gamma_s + u_{i,s},$$

where  $\%Yes$  is the percentage of votes cast in favor of proposal  $i$  in state  $s$ , and  $X$  are variables representing partisan and strategic factors. As before, I report regressions with and without fixed effects, but in this case the fixed effects regressions account for only state-specific factors. Political philosophy is proxied by  $\%DEM$ , the percentage of votes cast statewide in Congressional elections for Democrats as a percentage of the two-party vote. The strategic variables are the  $[p, q]$  values discussed above, the number of approved initiatives and referendums in the previous cycle, and a variable related to the alignment of voters and the legislature, discussed below.

These estimates come with some limitations. First, only 70 anti-DD proposals can be studied, making it difficult to achieve precise estimates. Second, legislatures surely formulate their

proposals taking into account the inclinations of voters. They are more likely to propose an anti-DD law if they expect voters to be receptive to the proposal. It follows that the explanatory variables are endogenous, and the parameter estimates may or may not be causal effects.

The first two columns of Table 7 test for the importance of partisan affiliation among voters. The coefficient in column (1) implies that a 1 percent increase in the number of Democratic voters in a state was associated with 0.06 more votes in favor of a proposal, a tiny number that is not statistically significant. Column (2), which includes state fixed effects, shows an equally miniscule and statistically insignificant relation. Interestingly, this suggests that the political philosophies that animate Republican legislatures to undercut direct democracy are not shared by ordinary Republican voters.

The regressions in columns (3) and (4) introduce the strategic variables. While a couple of coefficients are statistically different from zero at the 10 percent level, the main message is an absence of reliably significant coefficients. The lack of a relation between voting and the number of recently approved initiatives and referendums suggests that ordinary voters did not share the alarm of Republican legislators they saw direct democracy being used. The final variable is a dummy equal to one if the party in control of the legislature was the same as the party of the median voter. This intuitively motivated variable reveals whether proposals were more likely to pass when they come from legislatures that were aligned with the voters. The coefficients are negative, but small and statistically insignificant. The main message from Table 7 is that voter behavior on anti-DD proposals is not easily explained by the factors that appear to influence legislators, nor do voters routinely follow the lead of their elected officials, even if they are members of the same party.

## **8. Discussion**

Attempts by legislators to chip away at the initiative and referendum have been in the news lately. Absent scholarly research on the topic, much of the discussion has been forced to speculate about basic facts. This paper provides a quantitative picture of the amount of direct democracy backsliding from 1960 through 2022, with an eye to establishing key empirical patterns. As measured by legislative amendments to restrict the initiative and referendum processes, I find that anti-DD activities have not suddenly increased in recent years, say, since 2016, despite some conjectures otherwise. Rather anti-DD proposals have been common over the last 60 years, with the highest level of activity around the turn of the 21st century. Neither party has shown a

particularly strong attachment to direct democracy, but I am able to corroborate the conjecture that Republicans were the sponsors of the preponderance of anti-DD amendments.

In addition to establishing basic facts, the paper investigates why legislators sometimes seek to curtail direct democracy. I develop a theoretical framework in which legislators may seek to change direct democracy rules for strategic reasons – in order to shift the political equilibrium to produce their favored policy outcomes – or may be motivated by direct preferences over government processes, independent of policy consequences. The framework produces a set of implications that can be used to distinguish the theories empirically.

Although most proposals came from Republican-controlled states, this could be because anti-DD states were more prone to elect Republicans, or states were more prone to elect Republicans when voters were skeptical about direct democracy. To isolate the causal effect of party control and other variables, I estimate panel regression with state and year fixed effects. The causal evidence indicates two factors that materially increased the likelihood of anti-DD amendments: Republican control of the legislature and successful use of initiatives and referendums. I find little evidence that anti-DD proposals were related to strategic factors, such as the chance of the incumbent party losing control.

Interestingly, I find little evidence that Republican voters shared the hostility toward direct democracy of their representatives. Democratic and Republican voters were about equally likely to support anti-DD proposals, and both were much more likely to support pro-DD proposals. This brings to mind Bartels' (2023) argument that democratic backsliding (in Europe) has not been driven by ordinary voters, but rather by the machinations of elites, sometimes for strategic reasons to achieve favored policy outcomes. The evidence here reinforces the basic point the backsliding is mainly due to elites, but raises the possibility that elite-driven restrictions on democratic institutions may not be entirely strategic – there may be genuine differences among political actors about what democratic processes are most conducive to a well-functioning government.

Finally, by taking a close look at one very specific form of democratic backsliding, the analysis also illustrates how interwoven claims about democratic backsliding are with purely normative assessments about democratic processes. While democracy indexes, or the direct democracy counts in this paper, are quantifiable and in that sense objective, their interpretation relies on subjective assessments about alternative forms of democracy. We can conclude objectively that Republicans were more likely to propose amendments that raised the cost of using direct democracy, and in that sense contributed to direct democratic backsliding, but whether that is good or bad for democracy depends on one's opinion about the competence of voters to make public

decisions or the power of special interests, an issue that is contested even among strong advocates of democracy. This same point applies to many elements of the indexes that are used to document democratic backsliding in general. (Curiously, direct democracy is rarely incorporated into democracy indexes, despite its practical importance for governance and undeniable status as a “pure” form of democracy.) For example, making it easier to vote (providing absentee ballots, not requiring voter ID) would be counted as pro-democratic in most indexes, for natural reasons, but it could be seen as normatively undesirable if one views the changes as making it “too easy” to vote and leading to more fraud. This raises the question of how to interpret the existing evidence of democratic backsliding: to what extent is it capturing erosion of a commonly shared vision of democracy versus erosion of forms of democracy preferred by those who construct the indexes.

## References

- Altman, David, *Direct Democracy Worldwide*, New York, NY: Cambridge University Press, 2011.
- Barabak, Mark Z., "Lawmakers in states are handcuffing voters and ignoring election results," *Los Angeles Times*, May 24, 2023.
- Bartels, Larry M., *Democracy Erodes from the Top: Leaders, Citizens, and the Challenge of Populism in Europe*, Princeton, NJ: Princeton University Press, 2023.
- Bridges, Amy and Thad Kousser, "When Politicians Gave Power to the People: Adoption of the Citizen Initiative in the U.S. States," *State Politics and Policy Quarterly*, June 2011, Vol. 11(2), 167-197.
- Cantoni, Enrico and Vincent Pons, "Strict ID Laws Don't Stop Voters: Evidence from a U.S. Nationwide Panel, 2008-2018," *Quarterly Journal of Economics*, November 2021, Vol. 136(4), 2615-2660.
- Dubin, Michael J., *Party Affiliations in State Legislatures: A Year by Year Summary, 1796-2006*, McFarland & Company, Inc., 2007.
- Epstein, Reid J. and Nick Corasaniti, "Republicans Move to Limit a Grass-Roots Tradition of Direct Democracy," *New York Times*, May 22, 2021.
- Gerber, Elisabeth R., "Legislative Response to the Threat of Popular Initiatives," *American Journal of Political Science*, February 1996, Vol. 40(1), 99-128.
- Gilligan, Thomas W. and John G. Matsusaka, "Public Choice Principles of Redistricting," *Public Choice*, December 2006, Vol. 129(3/4), 381-398.
- Grumbach, Jacob M., "Laboratories of Democratic Backsliding," *American Political Science Review*, forthcoming.
- Hibbing, John R. and Elizabeth Theiss-Morse, "Process Preferences and American Politics: What the People Want Government to Be," *American Political Science Review*, March 2011, Vol. 95(1), 145-153.

Ingles, Jo, "LaRose says Issue 1 is '100%' about stopping possible abortion amendment," Statehouse News Bureau, June 6, 2023.

Jefferson, Thomas, Letter to John Armstrong, May 2, 1808, available at:  
<https://founders.archives.gov/documents/Jefferson/99-01-02-7944>.

Lieb, David A., "GOP Escalates Fight Against Citizen-Led Ballot Initiatives," U. S. News & World Report, September 3, 2022.

Luna, Taryn, "Unions and environmentalists push for California referendum reform," Los Angeles Times, March 20, 2023.

Matusaka, John G., "Public Policy and the Initiative and Referendum: A Survey with Some New Evidence," *Public Choice*, 2019, Vol. 174, 107-143.

Matusaka, John G., *Let the People Rule: How Direct Democracy Can Meet the Challenge of Populism*, Princeton, NJ: Princeton University Press, 2020.

Matusaka, John G., "Is Direct Democracy Good or Bad for Corporations and Unions?," *Journal of Law and Economics*, February 2023, Vol. 66(1), 83-110.

Matusaka, John G. and Nolan M. McCarty, "Political Resource Allocation: Benefits and Costs of Voter Initiatives," *Journal of Law, Economics, and Organization*, October 2001, Vol. 17(2), 413-438.

Messerly, Megan, Alice Miranda Ollstein, and Zach Montellaro, "Republicans look to restrict ballot measures following a string of progressive wins," Politico, September 10, 2022.

MIT Election Data and Science Lab, *U.S. House 1976-2020*, 2017 [updated], available at:  
<https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/IG0UN2>.

Ollstein, Alice Miranda and Megan Messerly, "Abortion on the ballot? Not if these Republican lawmakers can help it," Politico, March 19, 2023.

Smith, Daniel and Dustin Fridkin, "Delegating Direct Democracy: Interparty Legislative Competition and the Adoption of the Initiative in the American States," *American Political Science Review*, August 2008, Vol. 102(3), 333-350.

Stewart, Brian, Sponsor Testimony House Joint Resolution 1, Ohio House of Representatives, March 22, 2023, available at: [https://search-prod.lis.state.oh.us/cm/pub/api/api/unwrap/general\\_assembly\\_135/chamber/135th\\_ga/ready\\_for\\_publication/committee\\_docs/cmte\\_h\\_constitutional\\_resolutions\\_1/testimony/cmte\\_h\\_constitutional\\_resolutions\\_1\\_2023-03-22-0900\\_251/stewarthjr1.pdf](https://search-prod.lis.state.oh.us/cm/pub/api/api/unwrap/general_assembly_135/chamber/135th_ga/ready_for_publication/committee_docs/cmte_h_constitutional_resolutions_1/testimony/cmte_h_constitutional_resolutions_1_2023-03-22-0900_251/stewarthjr1.pdf).

Villeneuve, Marina, "Bill would make it harder to get citizen proposals on ballot," Associated Press, February 17, 2018.

Williams, Timothy, "First Came a Flood of Ballot Measures From Voters, Then Politicians Pushed Back," New York Times, October 15, 2018.

Wright, Gerald, "Representation in America's Legislature Project," 2007: <https://doi.org/10.7910/DVN/LFULHR>, Harvard Dataverse, V1, UNF:3:9a8vaMDfsL/fj/ZX/bGpnw== [fileUNF].

Zernike, Kate and Michael Wines, "Losing Ballot Issues on Abortion, G.O.P. Now Tries to Keep Them Off the Ballot," New York Times, April 23, 2023.



**Table 1. Legislative Proposals Affecting the Initiative and Referendum 1960-2022**

Description of proposal	# Anti-DD	# Pro-DD	# Neutral or mixed
<b>Amendment.</b> Ease for the legislature to amend or repeal an approved measure	5	3	0
<b>Approval.</b> Votes required to approve a measure	11	1	2
<b>New forms.</b> Adopting new forms of direct democracy	0	2	0
<b>Processes.</b> Administrative procedures	7	5	6
<b>Signatures.</b> Number of signatures required to qualify for the ballot; geographic distribution requirement	22	4	2
<b>Subject matter.</b> Prohibition of certain topics; requiring initiatives to embrace a single subject	16	3	3
<b>Time.</b> Days allowed to collect signatures; signature submission deadline	14	2	2
<b>TOTAL (APPROVED)</b>	70 (60%)	17 (82%)	13 (100%)

**Table 2. Empirical Implications from the Theories**

Theory	Party control causes anti-DD proposals (I1)	Transitory political configurations cause anti-DD proposals (I2)	Roll-call votes on anti- DD proposals polarized by party (I3)
Strategic motives	No	Yes	Yes
Process preferences: Political philosophy	Yes	No	Yes
Process preferences: Power maximization	No	No	No

**Table 3. Summary Statistics**

	Mean	S.D.	Min	Max	N
Dummy = 1 if any DD amendment proposed	0.11	0.31	0	1	800
Dummy = 1 if anti-DD amendment proposed	0.07	0.26	0	1	800
Dummy = 1 if pro-DD amendment proposed	0.02	0.14	0	1	800
Dummy = 1 if Democratic control	0.45	0.50	0	1	772
Dummy = 1 if Republican control	0.39	0.49	0	1	772
Dummy =1 if Democratic supermajority	0.29	0.45	0	1	772
Dummy = 1 if Republican supermajority	0.20	0.40	0	1	772
# initiatives and referendums passed previous cycle	1.1	1.5	0	9	800
Republican control: $p(1 - q)$	0.16	0.37	0	1	285
Republican control: $(1 - p)q$	0.04	0.20	0	1	285
Democratic control: $p(1 - q)$	0.14	0.35	0	1	339
Democratic control: $(1 - p)q$	0.09	0.29	0	1	339

*Note.* The unit of observation is a state in a two-year election cycle. A “supermajority” means the party controls enough seats to propose an amendment without votes from the other party.

**Table 4. Proposals and Partisan Control of Legislature**

	(1)	(2)	(3)	(4)
<i>Panel A. Dependent: Dummy = 1 if anti-DD amendment proposed</i>				
Dummy = 1 if Democratic control	0.26 (2.55)	-0.77 (2.62)	0.37 (2.96)	1.05 (3.06)
Dummy = 1 if Republican control	8.32*** (2.61)	8.76*** (2.77)	8.52*** (2.91)	8.92*** (3.16)
Election cycle FE	No	Yes	No	Yes
State FE	No	No	Yes	Yes
<i>Panel B. Dependent: Dummy = 1 if pro-DD amendment proposed</i>				
Dummy = 1 if Democratic control	-0.14 (1.49)	0.39 (1.51)	0.86 (1.73)	1.11 (1.78)
Dummy = 1 if Republican control	-0.44 (1.52)	0.91 (1.59)	-1.01 (1.70)	0.65 (1.83)
Election cycle FE	No	Yes	No	Yes
State FE	No	No	Yes	Yes
<i>Panel C. Dummy = 1 if anti-DD amendment proposed</i>				
Dummy = 1 if Democratic supermajority	-2.52 (2.13)	-2.21 (2.15)	-2.38 (3.89)	-1.63 (3.98)
Dummy = 1 if Republican supermajority	9.15*** (2.39)	9.24*** (2.50)	7.92** (3.44)	7.58** (3.72)
Election cycle FE	No	Yes	No	Yes
State FE	No	No	Yes	Yes
<i>Panel D. Dummy = 1 if pro-DD amendment proposed</i>				
Dummy = 1 if Democratic supermajority	1.20 (1.24)	1.02 (1.24)	3.92* (2.27)	3.60 (2.30)
Dummy = 1 if Republican supermajority	1.66 (1.39)	2.73* (1.44)	0.82 (2.01)	2.52 (2.15)
Election cycle FE	No	Yes	No	Yes
State FE	No	No	Yes	Yes

*Note.* Each column in each panel is a regression with the dependent variable indicated in the panel title. Standard errors are in parentheses beneath coefficient estimates. All regressions contain 772 observations, and all coefficients are scaled by 100 for readability. Constants are not reported. Significance is indicated: \* = 10 percent, \*\* = 5 percent, \*\*\* = 1 percent.

**Table 5. Regressions with Strategic Proxies**

	Anti-DD Proposals		Pro-DD Proposals	
	(1)	(2)	(3)	(4)
Dummy = 1 if Democratic control	2.24 (2.76)	3.87 (3.42)	-0.26 (1.65)	1.51 (2.02)
Dummy = 1 if Republican control	8.07*** (2.80)	9.58** (3.42)	-0.66 (1.67)	0.65 (2.02)
$p(1 - q)$ : Dummy = 1 if incumbent party same and median voter different party next cycle	-2.11 (2.91)	-3.98 (3.21)	2.29 (1.74)	1.61 (1.90)
$(1 - p)q$ : Dummy = 1 if incumbent party turns over and median voter different party next cycle	-2.61 (4.31)	-4.33 (4.64)	-2.20 (2.58)	-3.41 (2.75)
# initiatives and referendums passed previous cycle	1.89*** (0.60)	1.46* (0.78)	-0.23 (0.36)	-0.13 (0.46)
%Democratic voters	-0.16* (0.09)	-0.17 (0.12)	0.01 (0.06)	-0.01 (0.07)
Cycle and state FE Observations	No 724	Yes 724	No 724	Yes 724

*Note.* Each column is a regression in which the unit of observation is a state-election cycle. The dependent variable is a dummy = 1 if there was an anti-DD or pro-DD amendment on the ballot. Standard errors are in parentheses beneath coefficient estimates, all multiplied by 100 for readability. Statistical significance: \* = 10 percent, \*\* = 5 percent, \*\*\* = 1 percent.

**Table 6. Regressions with Strategic Proxies, Legislatures Controlled by One Party**

<i>Panel A. Republican-Controlled Legislatures</i>	Anti-DD Proposals		Pro-DD Proposals	
	(A1)	(A2)	(A3)	(A4)
$p(1 - q)$ : Dummy = 1 if Republican legislature + Democratic median voter next cycle	-7.78 (5.42)	-10.91 (7.52)	2.30 (2.49)	1.65 (3.23)
$(1 - p)q$ : Dummy = 1 if Democratic legislature + Republican median voter next cycle	-8.33 (9.39)	-13.99 (10.87)	-1.78 (4.31)	-0.18 (4.66)
# initiatives and referendums passed previous cycle	5.68*** (1.29)	4.19** (1.80)	0.04 (0.59)	0.86 (0.77)
%Democratic voters	-0.16 (0.19)	-0.16 (0.29)	0.02 (0.09)	0.03 (0.13)
Cycle and state FE	No	Yes	No	Yes
Observations	283	282	283	282
 <i>Panel B. Democratic Controlled Legislatures</i>	 Anti-DD Proposals		 Pro-DD Proposals	
	(B1)	(B2)	(B3)	(B4)
$p(1 - q)$ : Dummy = 1 if Democratic legislature + Republican median voter next cycle	1.10 (3.45)	1.00 (3.80)	2.04 (2.64)	2.14 (2.98)
$(1 - p)q$ : Dummy = 1 if Republican legislature + Democratic median voter next cycle	-0.79 (4.00)	2.08 (4.71)	-2.41 (3.06)	-2.27 (3.70)
# initiatives and referendums passed previous cycle	0.28 (0.69)	-0.13 (1.02)	-0.17 (0.53)	0.03 (0.80)
% Democratic voters	-0.19* (0.11)	-0.23 (0.15)	0.01 (0.09)	0.05 (0.12)
Cycle and state FE	No	Yes	No	Yes
Observations	324	324	324	324

*Note.* Each column in each panel is a regression in which the unit of observation is a state-election cycle. The dependent variable is a dummy = 1 if there was an anti-DD or pro-DD amendment on the ballot. Standard errors are in parentheses beneath coefficient estimates, all multiplied by 100 for readability. Statistical significance: \* = 10 percent, \*\* = 5 percent, \*\*\* = 1 percent.

**Table 7. Voter Support for Anti-DD Proposals**

	(1)	(2)	(3)	(4)
% Democratic voters	0.06 (0.12)	-0.16 (0.16)	0.10 (0.14)	-0.22 (0.16)
$p(1 - q)$ : Dummy = 1 if Democratic legislature + Republican median voter next cycle	...	...	25.97* (14.75)	14.71 (13.45)
$(1 - p)q$ : Dummy = 1 if Republican legislature + Democratic median voter next cycle	...	...	-9.24* (5.21)	0.44 (4.90)
$p(1 - q)$ : Dummy = 1 if Republican legislature + Democratic median voter next cycle	...	...	-8.15 (7.69)	-15.23 (10.08)
$(1 - p)q$ : Dummy = 1 if Democratic legislature + Republican median voter next cycle	...	...	-22.37* (13.20)	-10.18 (11.52)
# initiatives and referendums passed in previous cycle	...	...	1.81 (1.16)	1.81 (1.40)
Alignment: Same party in control of legislature and median voter	...	...	-2.50 (4.40)	-0.88 (4.83)
Constant	51.23*** (5.81)	60.47*** (7.28)	51.19*** (8.45)	62.01*** (9.24)
State fixed effects	No	Yes	No	Yes
Observations	70	64	65	59

*Note.* Each column is a regression in which the dependent variable is the percent of votes in favor of the proposed amendment. Standard errors are in parentheses beneath the coefficient estimates. Statistical significance: \* = 10 percent, \*\* = 5 percent, \*\*\* = 1 percent