

Restrictive ballot access laws reduce the technical complexity of initiatives and make them more likely to pass

Many states and local governments in the U.S. allow citizens to place measures on the ballot, but in recent years, some state governments have put into place restrictions such as requiring a greater number of signatures. In new research which studies nearly 600 ballot initiatives over 15 years, **Kerri Milita** finds rather than reducing the number of ballot initiatives which pass, these more restrictive laws may be having the opposite effect. She explains that since long and technically complicated ballot proposals are less likely to be approved by voters, those who sponsor initiatives in states with greater restrictions will tend to put forward less complex measures, which in turn have a greater chance of being successful.



The initiative process, which allows citizens to place measures on the ballot in some states and local governments, is a powerful and controversial tool for the public to directly author public policy. Since the early 1990s, Americans have used this process to pass hundreds of policy mandates in their respective states.

Perhaps unsurprisingly, many state legislatures have taken steps to curtail the public's ability to use the initiative by enacting restrictive ballot access laws – for example, increasing the number of signatures that must be collected before a proposal can make the ballot. For the most part, these laws have had their intended effect: fewer initiatives on the ballot. However, these obstructive election laws have also had a decidedly *unintended* consequence: these laws have increased the rate with which initiatives pass.

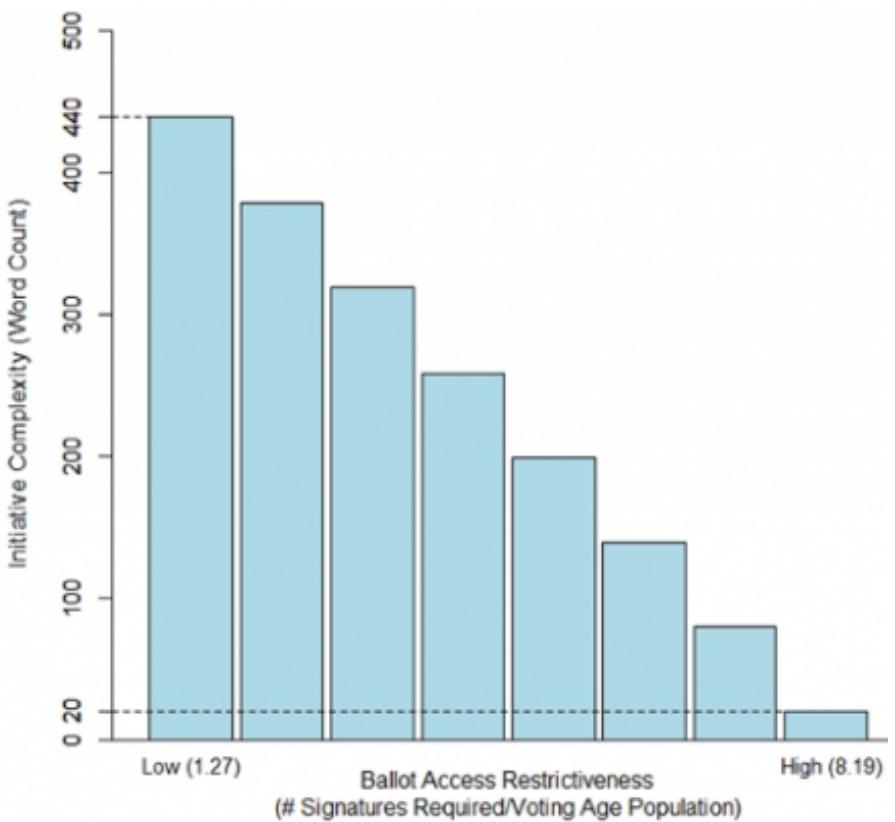
Here's why: *Voters hate being confused.* Hand a voter something confusing on Election Day, such as a wordy bond measure that grants judicial review over a state's public utilities commission, and they'll probably do one of two things: [abstain from making a decision](#) or [outright reject the proposal by voting 'no'](#) — a 'confusion penalty' if you will. In short, technically complex proposals are less likely to be approved on Election Day than measures that are easy for voters to understand.

Restrictive ballot access laws, such as those that increase the signature requirement or place caps on the allotted time to collect signatures, make it substantially more costly to use the initiative process. Thus, as sponsorship costs increase, the initiative process becomes a less desirable avenue of policy influence for technically complex proposals; as these measures tend to pass at lower rates than initiatives that are easily understood by voters. Who stays in the game? Sponsors fronting initiatives that people understand – initiatives not subject to the 'confusion penalty.' If this account is true, then in states where qualifying a ballot measure is relatively costly, initiatives should, on average, be less complex than in states that do little to restrict ballot access. Looking at the 598 initiatives that made a state ballot between 1996 and 2011, that's exactly what I find.

Figure 1 displays how the technical complexity of an initiative changes as ballot access laws become increasingly restrictive. Here, the complexity of an initiative is represented by the *number of words* used to summarize the proposal in the voter information pamphlet – where a higher word count denotes greater technical complexity. In other words, the more component parts to an initiative or the more technical the subject matter, the more words it will take to summarize the proposal. For instance, contrast how many words it would likely take to summarize a tort reform or medical malpractice measure with the number of words one would need to explain a proposal that seeks to ban same-sex marriage ([go here for a detailed defense of this measure](#) and for two alternative measures of complexity).

Figure 1 – Ballot Access Restrictiveness and Initiative Complexity

Ballot access restrictiveness is represented in Figure 1 by a state's signature requirement (the number of signatures that must be collected to qualify an initiative for ballot). When ballot access restriction is low (when only 1.27 percent of eligible voters must sign a petition), the average word count for an initiative is about 440, nearly two pages of text. In contrast, when ballot access is highly restricted (when over 8 percent of eligible voters must sign a petition), the average word count for an initiative is only about 20, a mere two lines of text. In states where ballot access is highly restricted, initiatives that do make the ballot are, on average, less technically complex than in states where it is relatively easy to qualify a measure.



How then does this relationship impact the passage of an initiative on Election

Day? Remember that voters hate being confused. And many will outright reject an initiative if they don't understand the underlying policy. As restrictive ballot access laws reduce the complexity of initiatives on the ballot, they effectively exempt these measures from the 'confusion penalty' and, thus, make these proposals more likely to pass.

Figure 2 shows the relationship between an initiative's technical complexity and its approval rate on Election Day. When an initiative's subject matter is highly complex (when it takes over 2,000 words to summarize the proposal and its policy implications), its average approval rate is only around 37 percent. In contrast, when an initiative is relatively easy to understand (when it takes about 18 words to summarize the proposal), its approval climbs to nearly 45 percent — a sizable eight percentage point climb in 'yes' votes — all due to a proposal's understandability.

Figure 2 – Initiative Complexity and Passage Rate

Election laws, it turns out, have consequences – both intended and unforeseen. Since the late 1990s, many American states have actively sought to curtail the public's ability to author policy as citizen legislators through the initiative process. And for the most part, these restrictions have done their intended job: they have reduced the frequency with which initiatives make the state ballots. However, it appears that restricting ballot access has had an additional effect on initiative use, one that was almost certainly unintended by those advocates of greater restrictions; making it harder to put initiatives on the ballot makes those initiatives that do qualify less technically complex and more likely to pass. Ironically, it seems that legislative attempts to restrict the initiative process have enabled the public, in a way, to use it even more successfully.

*This article is based on the paper '[Election Laws and Agenda Setting How Election Law Restrictiveness Shapes the Complexity of State Ballot Measures](#)', in *State Politics & Policy Quarterly*.*

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