

Reforming Massachusetts' Ballot Initiative Process

Preserving Direct Democracy While Improving Judicial Review, Transparency, and the Signature-Gathering Process

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Executive Summary

- Article 48 was designed as a complement to representative government, reserving a popular initiative power to citizens while preserving the Legislature's central role in lawmaking.
- Massachusetts already has one of the most restrictive ballot initiative processes in the country, with multiple layers of review, a short and multi-phased signature-gathering process, and numerous subject-matter restrictions.
- The Legislature is considering additional requirements involving campaign finance disclosure, signature gathering requirements, legislative oversight, and the timing and review of initiatives.
- The 2026 cycle demonstrated the costs of resolving constitutional and summary-related questions late in the process: three petitions were struck down by the Supreme Judicial Court after proponents had already invested substantial resources.
- The Commonwealth's 64-day first signature-gathering period is unusually short compared with those of other states. A longer period could reduce the pressure on campaigns to rely on outside signature-gathering firms.
- Reforms that improve transparency and protect the integrity of the process can be consistent with Article 48's original purpose, but reforms that substantially increase barriers to ballot access risk shifting power away from voters and back toward the Legislature.

Introduction

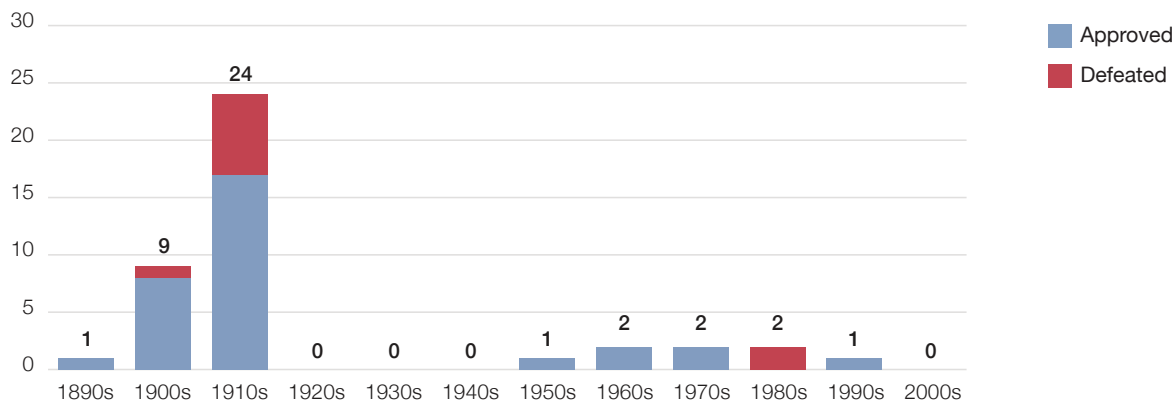
Article 48 was adopted in 1918 to give citizens a constitutional means of acting when the Legislature failed to address issues of broad public concern.¹ Following a high-profile 2026 cycle, Massachusetts is considering changes to its Article 48 ballot initiative process. In 2025, a record 47 ballot initiatives were initially proposed for the 2026 election, and nine will ultimately appear on the ballot.² The central question today is whether proposed reforms would strengthen the integrity of that process or make it unnecessarily more difficult for citizens to use.

Massachusetts already has one of the more restrictive initiative systems in the country, with an indirect process, multiple rounds of signature collection, subject-matter exclusions, substantial signature requirements, and constitutional review.³ Thus, the reforms now under consideration deserve to be evaluated not only on their individual merits, but also in light of the constitutional purpose of Article 48 and how Massachusetts compares with other states.

I. Article 48's Origins and Constitutional Purpose

Article 48's adoption to the Massachusetts Constitution allowed citizens to propose laws or constitutional amendments through an initiative petition process. This form of direct democracy was called upon by Progressive-era reformers to counteract an unresponsive Legislature that was dominated by special interests, invoking the principles written in the Massachusetts Constitution, which states: "the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness."⁴ Rather than replacing representative government, Article 48 was intended to create more accountability by ensuring citizens played a meaningful role in the lawmaking process.

Figure 1: Constitutional Amendments Proposed for Initiative and Referendum Processes by Decade in the United States, 1890s–2000s.



Source: *Ballotpedia*⁵

The delegates who drafted Article 48 at the 1918 Constitutional Convention had the benefit of learning from other states' initiative processes. Their passion for the amendment lied in their belief that an 18th-century constitution must adapt to people's 20th-century needs.⁶ Because many legislators at the time were concerned that laws proposed by citizens would be dominated by the wealthy, Massachusetts opted to utilize indirect initiative to balance power by including legislative approval and a variety of safeguards for proposing initiatives.⁷ Article 48 clearly states that "legislative power shall continue to be vested in the General Court; but the people reserve to themselves the popular initiative."⁸ Because of this, the initiative only acts as a complement to the Legislature when it fails to address public concerns.

The large number of rules in the Article makes the ballot initiative process one of the most stringent in the country.⁹ Despite this, many have challenged the intent and purpose of Article 48. The Supreme Judicial Court evaluated the intent of the initiative process in 1970, concluding that the amendment creates two distinct powers: the ability to initiate ordinary legislation and to propose specific constitutional amendments.¹⁰ The Court relied on the framers' original debates and emphasized how Article 48 doesn't provide unlimited direct democracy.¹¹ The process is regulated through its extensive

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filing deadlines across a two-year period, substantial signature requirements, review from the Attorney General, and many subject-matter exclusions like religion and the court system.¹² Thus, the process functions to preserve the Legislature's central role while giving citizens a constitutional backstop.

Over the past century, the initiative process has largely functioned as intended. Since adoption, voters have considered 231 statewide ballot measures and approved nearly 70 percent of them, shaping major policy outcomes involving environmental protection, seat belt requirements, housing policy, and much more.¹³ Despite legislators' claims that the process has deviated from original intentions with the prevalence of paid signature collectors, canvassers and advertisers were around when the Article was first enacted.¹⁴ The process has certainly been more active in recent years, leading to a record-tying number of ballot questions this year, but it has remained subject to the same safeguards throughout its history.

Lawmakers' proposed reforms would severely restrict the process, increasing geographic signature requirements, increasing campaign finance disclosures, restricting paid signature collection, raising vote thresholds for certain ballot items, and expanding the Legislature's ability to override voter-approved measures.¹⁵ Some of these proposals align closely with concerns expressed during the original debates in 1917, as opponents of the initiative were afraid that the wealthy would exert influence over the process and infringe on minority rights.¹⁶ While financial transparency could align well with the original intent, increasing signature geographic requirements and raising vote thresholds would only act as a barrier to citizens using this tool.¹⁷

Judged against its original purpose, Article 48 appears to be functioning much as its framers intended: as an intricate but workable mechanism citizens can use when representative government fails to address issues of broad public concern. As Massachusetts considers reforming the initiative petition process, lawmakers should evaluate their proposed changes in light of the original purposes of Article 48. They should also evaluate proposed changes based on how the initiative petition process functions in other states, a topic which we address in the following section.

II. Comparing Massachusetts' Ballot Process with Those of Other States

While 21 states provide some form of statewide initiative to amend a statute, each has adopted different safeguards to balance direct democracy with protecting the state's constitution and its legislative process.¹⁸

Notably, states differ in how the government participates throughout the initiative process. "Direct initiatives" rely mostly on signature thresholds to regulate ballot access, while "indirect initiatives" include legislative review. The 14 direct initiative states have a more streamlined process: draft proposal, collect signatures, get on the ballot. Indirect initiatives are required in seven states, with Utah and Washington allowing both direct and indirect processes.¹⁹

States with indirect initiative, however, have not seen many initiatives adopted in the Legislature itself, requiring them to be put on the ballot. In fact, both California and South Dakota replaced their indirect process for lack of use, while Utah has never adopted an indirect measure in its history.²⁰

Massachusetts stands apart from other states because it incorporates multiple layers of review throughout the initiative process, making it a stringent "indirect" system.²¹ Before voters ever see a question on the ballot, an initiative petition proposal must go through a constitutional review process, multiple rounds of signature collection, and in some

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cases, judicial review.²² This November, Massachusetts voters will see nine questions on the ballot—a substantial number, but far fewer than the 47 petitions filed in 2025.²³

The steepest dropoff in petitions qualified for the ballot—from 44 to 11—came from the process of gathering signatures from registered voters. Only in Massachusetts and Ohio is an initiative petition ever subject to multiple rounds of signature gathering.²⁴ In 10 states, the allowable period for gathering signatures is a year or longer—in Massachusetts, the first round of signature gathering lasts 64 days.²⁵

That said, at least 11 states require higher signature thresholds than the Commonwealth. For instance, California and Oregon have signature gathering requirements equivalent to 5 percent and 6 percent of the votes cast in the previous gubernatorial election, respectively. Between its two signature gathering phases, Massachusetts requires 3.5 percent.²⁶

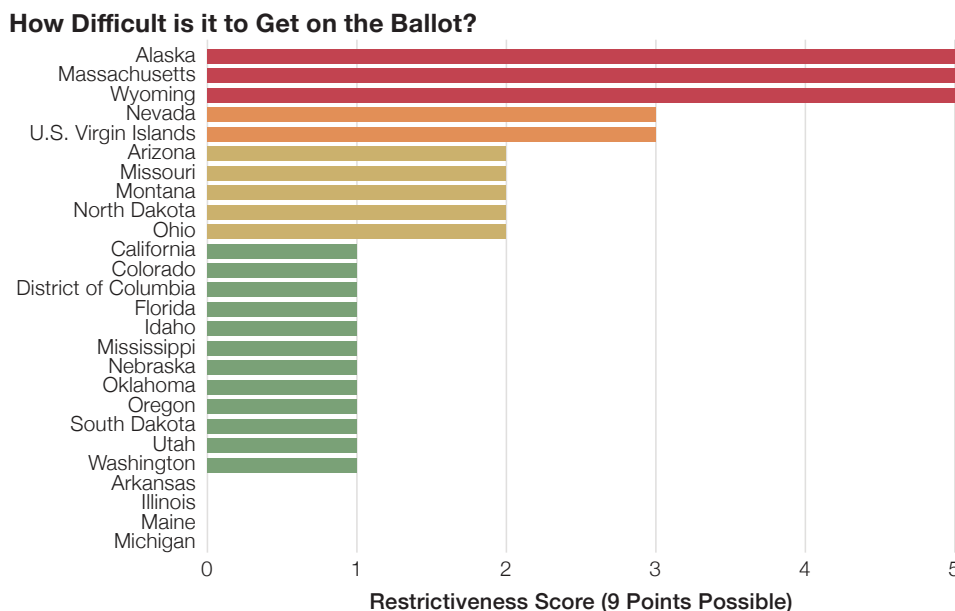
There are also restrictions on what topics can be covered in a petition, known as single subject rules and exclusions. Excluded subjects include religion, the judiciary, the courts and constitutional rights—topics for which ballot measures could either infringe on fundamental freedoms or create constitutional separation of powers issues if enacted by the Legislature.²⁷ Of the 21 states that permit the ballot initiative process for statutory reforms, all but three (Arkansas, Maine, and Michigan) have subject restrictions.²⁸

In addition, Massachusetts and at least 12 other states have a single subject rule, meaning that the ballot measure can only address one topic.²⁹ This rule prevents one policy change from becoming a trojan horse to get voters to approve another, less popular policy change.

Overall, common subject matter restrictions fall into nine categories: single-subject rule, constitutional amendments, appropriations, religion, judicial matters, local/special legislation, tax measures, emergency legislation, and other prohibited policy areas. According to the National Conference of State Legislatures, Massachusetts ties two other states with the highest restrictiveness score of five out of nine, which was calculated by tallying the number of rules or restrictions included in each state's statute (see Figure 2).³⁰

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Figure 2: Number of Exclusions (Restrictiveness Score) for Initiative and Referendum Subjects by State



Source: National Conference of State Legislatures³¹

Of the reforms lawmakers are most heavily considering, new restrictions on how campaigns raise money and collect signatures feature prominently. The stated objective is to increase transparency and curb potential fraud in the signature gathering process.

III. Reforms Under Consideration by the Legislature

After a wave of ballot questions in 2026, Massachusetts lawmakers are considering new restrictions on how these campaigns raise money and collect signatures. Lawmakers say the changes are meant to increase transparency and curb potential fraud in the signature gathering process.³²

More public reporting on campaign fundraising and spending

Lawmakers are worried about the lack of financial transparency in ballot question campaigns, arguing that voters should see who is donating money to support and oppose ballot questions, which are often well-financed. Many lawmakers see this as critical information voters need to make informed decisions at the polls.³³

In January 2026, the Senate approved a bill to require more public reporting on ballot question fundraising and spending.³⁴ Currently, voters can see this information eventually, with reports due in January and September of the election year and more frequently thereafter.³⁵ But many ballot campaigns raise and spend a substantial amount of money in the year before the election, which can go unreported for months. The Senate's reform package would require monthly financial disclosures for most of the duration of the campaign, and biweekly ones starting in the September before the election.³⁶

Some other states have ballot campaign financial disclosure requirements that are at least as strict. Montana requires monthly reports in the eight months before election day and large donations in the three weeks before election day to be reported within 48 hours.³⁷ Florida requires weekly disclosures starting two months before the primary and daily reports in the 10 days before the general election.³⁸ Other states—including Illinois, Michigan, and Washington—require at least quarterly reports during an election year, more frequent than those currently required in Massachusetts.³⁹

Prohibition of pay-per-signature arrangements

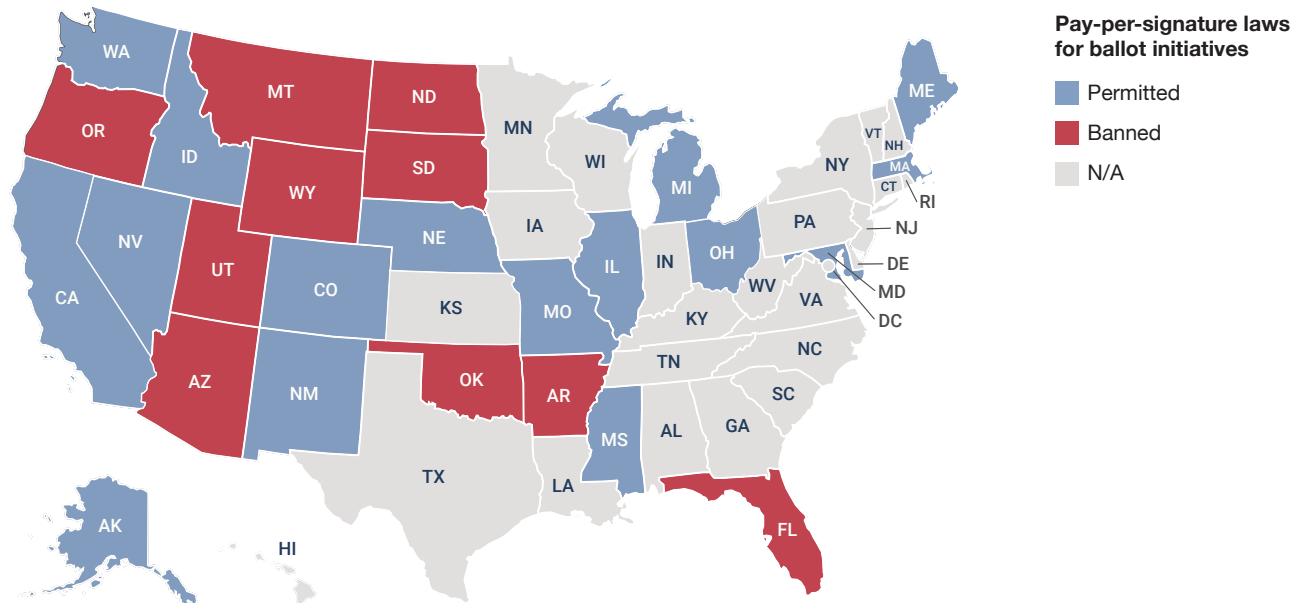
Another proposal seeks to ban pay-per-signature arrangements—rewards offered based on the number of signatures gathered.⁴⁰ This proposal exists in an amendment Senator Barry Finegold made to Senate Bill S.2898.⁴¹ The intention is to maintain the grassroots nature of campaigns and prevent outside funding from distorting the level of voter support.⁴² Lawmakers are worried that without these constraints, paid signature gatherers undermine the original intent behind the 1918 Initiative Law to let voters bypass an inactive Legislature through a display of public support.⁴³ Eliminating per-signature payments also reduces the incentive to seek out signatures aggressively without regard for accuracy or voter understanding.

Finegold's proposal reflects an important difference between how ballot campaigns have historically functioned and how they function today. While there have always been paid canvassers and advertisers supporting campaigns, in the past few decades specialized firms have started running entire ballot-access operations, including recruiting and managing circulators, tracking signatures, and sometimes coordinating broader campaign logistics. In Massachusetts, one of the largest signature gathering firms is SignatureDrive.com, which utilizes a pay-per-signature structure for its circulators.⁴⁴

If Massachusetts passes legislation restricting or banning per-signature payments, it will join the 10 states that tightly control how signatures can be collected.

Twenty-six states currently have an initiative or referendum process, of which ten prohibit pay-per-signature arrangements (see Figure 3).⁴⁵ Eight states ban pay-per-signature arrangements in state laws, and two (Arkansas and Oregon) ban them in their constitutions. In California, several pay-per-signature bans have been proposed in the past couple of decades, all of which have passed the state legislature before being vetoed by the governor.⁴⁶ If Massachusetts passes legislation restricting or banning per-signature payments, it will join the 10 states that tightly control how signatures can be collected.

Figure 3: Pay-per-signature laws by state



Source: Ballotpedia⁴⁷

Establishment of a ballot process reform commission

There is also a proposal for a nine-person commission to study reforms to the ballot initiative process, drawing members from across state government and civic groups. These members would include legislative leaders, the Attorney General, the Secretary of State, gubernatorial appointees, and a representative from pro-democracy organization Common Cause Massachusetts.⁴⁸

The purpose of this commission is to provide insights on and recommended amendments to the ballot initiative process by the end of 2027. The commission would focus on four main areas: strengthening constitutional review of ballot measures, improving the accuracy and accountability of voter-facing summaries, reconsidering signature requirements, and reassessing the timeline of the initiative process relative to the Legislature's schedule.⁴⁹

IV. The Case for Earlier Constitutional and Judicial Review

Among other responsibilities, the nine-person commission would examine whether the Attorney General's certification process should include a more comprehensive constitutional review before a petition advances, ensuring voters receive a fair and accurate summary of proposed measures. Under the current system, the Attorney General approves initiative summaries for voters and determines whether a proposed initiative satisfies the constitutional requirements for certification under Article 48.⁵⁰

Broader constitutional questions and disputes over initiative summaries are often resolved only after campaigns have collected signatures and litigation reaches the Supreme Judicial Court (SJC).⁵¹ The commission would be tasked with evaluating whether those issues should be addressed earlier, potentially reducing the risk that initiatives are invalidated after significant time, money, and effort have been invested.

In 2026, the SJC ultimately struck down three petitions, which if passed would have reinstated rent control, reformed stipend allocations in the Massachusetts Legislature, and reduced the income tax rate.⁵² Combined, these campaigns raised more than \$2.7 million and spent at least \$1.6 million in 2025 alone. The SJC deemed the rent control and stipend reform petition language unconstitutional.⁵³ The income tax cut measure was thrown off the ballot not because of a flaw with the petition itself, but because the SJC deemed the Attorney General's summary misleading after it had already been presented to voters during the signature gathering process.⁵⁴

In other states, where executive state officials similarly conduct an initial review of the petition language, removing petitions from the ballot is not the only remedy for a flawed summary. In 2023, a Missouri court simply rewrote the Attorney General's summary that used politically charged language to describe a pro-abortion ballot measure.⁵⁵ Similar court rewrites that still allowed the measure to appear on the ballot have occurred in Alaska, Montana, Nevada, and Oregon.⁵⁶

In cases where the petition's flaws are truly the fault of proponents, an earlier rejection may be a more fair and efficient outcome. If constitutional or other problems are going to sink an initiative eventually, catching them sooner means less time, money, and organizing capacity wasted on a doomed effort—resources that could instead go toward revising the proposal or pursuing a different one.

In Florida, the state Supreme Court is required to review every proposed ballot measure, and often does so well in advance of Election Day.⁵⁷ In 2021, Florida's Supreme Court struck down a ballot measure that would have legalized recreational marijuana use a year and a half before it would have appeared before voters and 10 months before the signature gathering deadline.⁵⁸ That same year, the Colorado Supreme Court struck down an animal rights ballot proposal eight months before the signature gathering phase started.⁵⁹ In one recent Montana case, proponents had enough time to refile their petition with updated language after a court struck down the initial version.⁶⁰

In cases where the petition summary is at fault, earlier judicial review of the petition would also make it easier to justify amending the summary language rather than keeping the measure off the ballot. That's why some prominent observers, including former SJC justices,⁶¹ have called for constitutional questions and legal challenges from third parties to be resolved before the signature gathering phases, when the AG's summary is shown to hundreds of thousands of likely voters.

The Massachusetts Legislature's ballot reform measures reflect a tradeoff between the merits of direct democracy and the need for oversight and transparency in the passage of new laws. Earlier judicial review is a rare policy that could both improve that oversight and make it easier for citizens to advance petitions—and amend them before it is too late to keep them on the ballot.

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Conclusion

Massachusetts should approach ballot initiative reform with the original purpose of Article 48 in mind. The Commonwealth already has extensive safeguards designed to balance direct democracy with the Legislature's central role, and it already operates one of the more restrictive initiative systems in the country. Reforms that increase transparency and protect against fraud can strengthen public confidence, but reforms that make it substantially harder for citizens to qualify initiatives risk undermining the constitutional balance Article 48 was designed to create.

Two changes would improve the process without unnecessarily restricting citizens' ability to use it:

1. Establish judicial review early in the initiative process. Constitutional questions and legal challenges should be resolved before the signature-gathering phase when possible. Earlier review would reduce the risk that initiatives are invalidated after campaigns have invested substantial time, money, and organizing capacity, while giving proponents an opportunity to revise defective language or correct a problematic summary before it reaches hundreds of thousands of voters.

2. Lengthen the period available for signature collection. The Commonwealth's 64-day first round of signature collection creates significant pressure to gather a large number of signatures quickly. Giving campaigns more time would reduce the incentive to hire outside signature-gathering firms and allow campaigns greater opportunity to collect signatures through their own supporters while preserving existing signature requirements and safeguards.

Taken together, these changes would improve the administration and integrity of the ballot initiative process while preserving the people's reserved legislative power. The goal of reform should not be to prevent initiatives from reaching voters, but to ensure that measures that do reach the ballot have been adequately reviewed and supported through a process that remains accessible to citizens.

Giving campaigns more time to gather signatures would reduce the incentive to hire outside signature-gathering firms.

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