

# 17 ballot measures from history that might never have become law



*Some states are trying to make direct democracy harder*

Authors: Caroline Joseph and Anh-Linh Kearney, RepresentUs Research Analysts  
June 29, 2022

---

## Summary

In response to a growing number of supermajority threats on the ballot in recent years, we identified a number of popular proposals that might never have passed had a 60% supermajority passage requirement been in place. These 17 stood out, from women's suffrage to anti-corruption reforms.

---

## OVERVIEW

Ballot measures are one of the most powerful ways citizens can get directly involved in the democratic process. In cities and states across the country, voters can come together around an issue and even put their own solution on the ballot. This form of direct democracy is one of the most common ways RepresentUs passes pro-democracy reforms.

Despite the central role it plays in democracy, the ballot measure process is under attack in many states. In our last [report](#), we found that in the last five years, 11 states have attempted to limit direct democracy by implementing supermajority requirements. This year, three states have been successful at advancing this question to the ballot for voters to decide – a record high in the last thirty years.

One particular kind of supermajority requirement popped up in the greatest number of states: the 60% rule. In fact, all three successful referrals to the ballot this year aim to raise the requirement for passage from a simple majority of voters to 60% of voters. This follow-up analysis identifies examples of popular laws, perhaps now taken for granted, that would have failed under this test.

## BALLOT MEASURES THAT WOULD HAVE FAILED UNDER 60% RULE

In a review<sup>1</sup> of state ballot measure histories, we identified a number of popular proposals that would not have passed had a 60% supermajority passage rate been in place. These 17 stood out:

- Alaska would not have...
  - [Established a voting age of 18](#)<sup>2</sup>
    - 1970 Legislative Referral – 54%
  
- Arkansas would not have...
  - [Permitted the use of voting machines](#)
    - 1962 Initiative – 50.5% approval
  - [Ensured access to voter registration without poll tax](#)<sup>3</sup>
    - 1964 Initiative – 55.9% approval
  
- Maine would not have...
  - [Passed gay marriage](#)
    - 2012 Initiative – 51.5% approval
  - [Established ranked choice voting](#)
    - 2016 Initiative – 52.1% approval
  - [Instituted public campaign financing](#)
    - 1996 Legislative Referral – 56.2% approval
  
- Massachusetts would not have...
  - [Permitted retail stores to be open on Sunday morning and certain holidays](#)
    - 1994 Initiative – 52.7% passage rate
  
- Nevada would not have...
  - [Established automatic voter registration at the DMV](#)
    - 2018 Initiative – 59.6% approval
  - [Banned most indoor smoking](#)
    - 2006 Initiative – 53.9% approval
  
- New York would not have...
  - [Established a redistricting commission](#)
    - 2014 Legislative Referral – 57.7% approval
  
- North Dakota would not have...

---

<sup>1</sup>The National Conference of State Legislatures' [Ballot Measure Database](#) tool proved to be an invaluable resource as we compiled this analysis, as did Ballotpedia.

<sup>2</sup> Passed before the 1971 ratification of the 19th amendment to the U.S. Constitution.

<sup>3</sup> Passed after the 1964 ratification of the 24th amendment to the U.S. Constitution, which bans poll tax use in federal elections. It wasn't until 1996 that the U.S. Supreme Court ruled that the amendment also applied to state elections.

- [Established an ethics commission, banned foreign contributions, and addressed lobbying and conflicts of interest issues](#)
  - 2018 Initiative – 53.6% passage rate
- [Repealed prohibition<sup>4</sup>](#)
  - 1932 Initiative – 57.6% passage rate
- Ohio would not have...
  - [Changed the constitution's description of who has a right to vote from "Every white male citizen" to "Every citizen"](#)
    - 1923 Legislative Referral – 56% approval
- Oklahoma<sup>5</sup> would not have...
  - [Permitted sale of liquor by the drink](#)
    - 1984 Initiative – 51.8% approval
  - [Granted women the right to vote<sup>6</sup>](#)
    - 1918\* Legislative Referral – 56.70% approval
- South Dakota would not have...
  - [Required the use of seatbelts](#)
    - 1994 Veto Referendum – 51.2% approval
- Washington would not have...
  - [Improved campaign finance restrictions](#)
    - 1972 Legislative Referral – 54.7% approval

---

<sup>4</sup> Passed before the 1933 federal repeal of prohibition, which left the matter up to the states. Accordingly, this measure became legally binding several years after passage.

<sup>5</sup> Until 1974, Oklahoma required the majority of all voters in election, rather than just the majority of those voting on the measure, to approve the measure for passage until 1974. Years with this requirement in place are denoted with an asterisk.

<sup>6</sup> Passed before the 1920 ratification of the 19th amendment to the U.S. Constitution.