

Approaches to Altering State Constitutions

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Abstract

The methods authorized for constitutional amendments are prescribed by state constitutions and case law. The states have adopted three primary methods, in one combination or another, for amendment. Such methods include (1) the constitutional convention, (2) the legislative initiative, and (3) the popular initiative. Not all states use all three methods. This paper describes these methods, examines their use in various states, and highlights any procedures which vary significantly from the California approach. The paper also examines the constitution revision commission and the role such commissions have played in constitutional modification. The role of the commission is considered within the California context and, then, within the context of other states as well. Finally, the paper looks at data which summarize constitutional changes by number, method, and nature of amendment. Although states that allow amendment by popular initiative have a slightly higher average number of amendments proposed and adopted, the long term average number of amendments adopted per year is consistent, regardless of amendment method. Differences between states are reflected most strongly in their level of activism, that is, in the number of amendments proposed. California, which allows amendment by popular initiative, and Alabama, which does not, have been among the most active states in proposing constitutional amendments. Further, both states are likely to continue to be national leaders in proposing a large number of constitutional amendments.

METHODOLOGY

Researchers obtained information for this report in three ways: 1) review of state constitutions, 2) review of annotated reference guides, law review articles and other scholarly works; and 3) through access to a data base developed by the Institute of Governmental Studies of the University of California at Berkeley.