

The 2017-2018 CRC in Retrospect

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Overshadowed by three recounts of statewide races in the days following the election was the success of the seven constitutional amendments placed on the ballot by the Constitution Revision Commission. The results outstripped the success of the earlier two CRCs—even with the more daunting standard of 60 percent of the vote for ratification. The seven amendments (an eighth was removed by the Supreme Court for misleading title) were often-times criticized by newspapers and political pundits for two reasons. First, five of the CRC amendments bundled together two or more (in one case four) provisions, sometimes with little close similarity to each other. Second, a number of criticisms pointed out that some of the provisions might easily be put in statute, rather than ensconced in the state constitution. The newspaper was typical with its call for voting the whole bunch down the CRC amendments plus the two initiatives and three legislative referrals. But the public disagreed and 11 are now in the state constitution.

Only one of the 11 amendments on the ballot failed to reach the 60 percent standard—a legislative referral increasing But it came close—58%. The success of the amendments flies in the face of political science research finding that when voters are unsure about ballot measures (because they are complex, arcane or both) they vote “no.” Here an electorate full of first-time and occasional voters (who don’t usually participate in mid-year elections) approved measures—perhaps because they thought they would constrain or out-run the legislature/elected officials , perhaps because they liked the descriptions—Lobbying and Abuse of Office by Public Officials got the most votes—a combination of end-runs and clear language.

Here are the amendments that passed and their passage rates:

Amendment 6: Rights of Crime Victims, Judges (3 provisions) 62%

Creates a new constitutional right for crime victims to receive information and provide input during criminal cases. Known as Marsy's Law, the measure would, among other things, establish a right for the safety of victims and their family members to be considered when bail is set in criminal cases. The package also would expand the mandatory retirement age for judges and would require judges and hearing officers to independently interpret statutes and rules rather than deferring to government agency's interpretation.

Amendment 7: First Responder and Military Member Survivor Benefits; Public Colleges and Universities (3 provisions) 66%

Give college scholarships to survivors of certain first responders and members of the military, require a supermajority of university and college governing boards to raise fees and establish the state college system as a constitutional entity.

Amendment 9: Prohibits Offshore Oil and Gas Drilling; Prohibits Vaping in Enclosed Indoor Workplaces (2) 69%

Bans oil and gas exploration in state waters while also banning vaping in indoor workspace. It prohibits drilling for exploration or extraction of oil and natural gas in specified state waters.

Amendment 10: State and Local Government Structure and Operation (4) changes legislative session to January of even-numbered years; establishes an office of domestic security and counterterrorism within the Department of Law Enforcement; requires, rather than authorizes, a Department of Veterans' Affairs to be headed by the Governor and the Cabinet; and forces all counties to elect rather than appoint all constitutional officers. 63%

Amendment 11: Property Rights; Removal of Obsolete Provision; Criminal Statutes. (3) Removes provision prohibiting aliens ineligible for citizenship from owning property; amends provision relating to retroactive application of changes in criminal law to punishment of those sentenced earlier of that crime; deletes provision relating to high-speed rail. 62%

Amendment 12: Lobbying and Abuse of Office by Public Officials 79%

Prohibits former public officials — legislators, local government officials, governors, agency heads, and Cabinet officials — from making money off lobbying their former colleagues for six years. Establishes new standards for abuses of public office for personal benefit. Provides that a member of the legislature cannot lobby the legislature or any state government body. It was approved 30-4.

Amendment 13: Ends Dog Racing 69%

Gives greyhound racing tracks until 2020 to phase out dog racing. It was approved 27-10.

Taken off the ballot was Amendment 8, School Board Term Limits and Duties; Public Schools (3). Allows charter schools to bypass local school boards, expands civics education in public schools and sets an eight-year term limit for school board members.

Apart from the bottom line, are some aspects of the process of the 2017-2018 CRC that might be useful in 2027-28. Some key points:

--the 2017-2018 CRC made a considerable effort to solicit testimony and proposals from the public and make the process readily available to everyone. --the CRC met its obligations, providing eight proposed amendments to the Secretary of State well before the constitutional deadline.

--the CRC members took their obligations seriously, attending meetings and participating in committee meetings having done their homework and seriously debated issues.

--There were only three Democrats on the 2017-2018 CRC. This mirrored the 1997-1998 CRC which was dominated by Democrats. While expected, given the appointment process, the domination of one party creates the appearance of bias and limits the scope of the amendments seriously considered.

--Unlike previous years, the chair was not a well-known attorney with considerable experience in state policy. The meetings of the CRC were short and unlike in previous years, there was little attempt to inform the members of the history and importance of the CRC.

--While most of the rules followed the 1997-1998 rules; there were two controversies regarding the Open Meetings and ability of committees. ADD

--In the end, 8 measures were introduced; five were made up of 'bundled,' sometimes disparate provisions. While the CRC members argued that the bundling was necessary to avoid voter fatigue, there was criticism that some controversial provisions were combined with popular ones in hopes of passage.

--Some of the provisions in the final submission seemed more suited to legislative action than enshrined in the state's constitution.