

# NONPROFITS AND BALLOT MEASURES

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## What is a Ballot Measure?

**Ballot measures ask voters to vote on laws, bonding issues or constitutional amendments.**

If the vote is on a proposed law, it's called a "ballot initiative." If the vote is on a law already passed by the legislature, it's called a "referendum."

## How are Ballot Measures different from candidate elections?

**The IRS considers activity on ballot measures lobbying - not electioneering.**

The IRS makes this distinction because advocacy on ballot measures is an attempt to influence the passage or defeat of a law or constitutional amendment – not the election or defeat of a candidate. Therefore, nonprofits may work for or against any ballot measure as a lobbying activity.

## May a 501(c)(3) nonprofit work for or against a Ballot Measure?

**Yes. Nonprofits are free to work for or against ballot questions up to normal lobbying limits.**

For example, a nonprofit may choose to engage in any number of activities in support of or opposed to any ballot measure – nonprofits can make an endorsement and can communicate their position to their constituents and the general public, they can organize volunteers to work on a ballot measure, or they can host a forum or event.

## What if my nonprofit provides neutral information about Ballot Measures?

**If the materials on ballot measures are purely educational and don't advocate for the measures' support or defeat, distributing these materials is a nonpartisan voter education activity.**

It is neither lobbying nor electioneering. There are no limits on the amount of nonpartisan/neutral voter education your nonprofit may do regarding ballot measures or any type of election.

## What are the 501(c)(3) lobbying limits for Ballot Measures?

**Your lobbying limits depend on which test your nonprofit chooses to measure its lobbying.**

1. If your nonprofit has elected to measure lobbying under the *501(h) expenditure test* (highly recommended!), you will have clearer guidance and can do more lobbying. Under this test, you can spend as much as 20% of your annual budget on lobbying, including influencing ballot questions or legislation.
2. If your 501(c)(3) has not filed the 501(h) form, its lobbying falls under the "*insubstantial part test*". In this case, it may only spend an "insubstantial" amount of money on lobbying, such as work for or against a ballot measure. "Insubstantial" is not clearly defined.

## Nonprofits and Ballot Measures (continued)

### How does my nonprofit select the 501(h) lobbying expenditure test?

File a one-page, one-time form with the IRS - Form 5768.

Once submitted and approved, your nonprofit has higher and more clearly defined lobbying limits.

### What about tracking lobbying or ballot question expenditures?

A nonprofit's activity for or against a ballot measure is tracked like other lobbying activities.

If you have taken the 501(h) election, you'll report your lobbying expenditures on your organization's annual Form 990 filing with the IRS.

## Learn More

- *Laws on the Ballot Webinar, Nonprofit Vote*, <http://www.nonprofitvote.org/resources/laws-on-the-ballot/>
- "Ballot Measures and Public Charities," Alliance for Justice, [www.afj.org](http://www.afj.org)
- "Maximize Your Lobbying Limit: Elect to Measure Your Lobbying Using the 501(h) Expenditure Test, Alliance for Justice," [www.afj.org](http://www.afj.org)

*A note on state campaign finance disclosure: Some states ask anyone spending more than a certain amount for or against a ballot measure to file a disclosure report. There is no limit on spending – just a disclosure. For more information, contact your state's campaign finance office.*