



No Smoking Gun On 100-Word Rule

Exactly why does Michigan’s constitution limit ballot proposals to a 100-word summation? Those looking for a definitive explanation will likely be disappointed. Research indicates that there’s been very little written on the topic.

The RMGN ballot proposal is probably vulnerable to being knocked off the ballot even if the 100-word requirement didn’t exist, but the requirement seems to provide an additional indication that a multiple-subject proposal like the RMGN is not what constitutional framers envisioned when they provided for ballot proposals.

RMGN opponents argue that it’s pretty clear that the 34-subject proposal can’t be reasonably described in the required 100-words. However, State Bureau of Elections Director Chris **THOMAS** argues that the proposal can be adequately summed up, because he says a proposal’s wording doesn’t have to include every change it would make.

The state Board of Canvassers is scheduled to hear testimony this week on the ballot wording.

Mackinac Center Analyst Patrick **WRIGHT** found that the language requirement dates back to a constitutional amendment called Proposal 1 that was passed on April 7, 1941. Prior to the vote, the *Detroit News* and *Detroit Free Press* wrote editorials urging that Proposal 1 and Proposal 2, which dealt with initiative and referendum, pass.

Media reports from the time indicated that these proposals were drafted, in part, after a Supreme Court ruling that gave the state no grounds to toss a ballot proposal even if the signatures are plainly fraudulent.

In *People v. Kelly* of 1940, the Michigan State Dental Society tried to kill a referendum regarding the 1939 State Dental Act before it got on the ballot. The referendum needed a little more than 80,000 signatures to make the ballot and 97,000 were turned in. But after the Dental Society scrubbed the signatures, it was found that less than 25,000 were valid. They argued that there was “evidence of wholesale irregularities and gross fraud.”

Some of the Dental Society’s signature claims were hypertechnical, but some were valid. The crux of the

opinion was that the Secretary of State did not have the authority to independently investigate the signatures, although the State Supreme Court did allow it to reject facially ridiculous names from being counted.

This decision led Secretary of State Harry F. **KELLY** and Detroit Elections Supervisor Oakely **DISTIN** to seek reforms.

“All that is thought is to place in the hands of real people the right to petition -- not fictitious people and to protect the people at large against those who have in the past, and can in the future, make a racket out of our petition system,” Kelly said.

Part of that reform was the 100-word provision as opposed to the requirement that the entire proposal be published.

The *Detroit Free Press* indicated that the 100-word provision was not too much at issue: “The merit of this need not be labored. It will make the bedsheet ballot an historical curiosity.”

The 1961 Constitutional Convention did not add much to the understanding of the 100-word requirement, which was included in the original committee proposal. Most of the debate on that proposal concerned the number of signatures necessary for an amendment to the constitution.

Delegate Garry **BROWN** offered a comprehensive amendment that, in part, eliminated the 100-word requirement. One of the committee members, Clyne **DURST** Jr., addressed this almost as an aside:

“Also contained in the language which Mr. Brown eliminates is the requirement that the proposed amendment be expressed in not more than 100 words and setting out some requirements for that 100 words. Since it is necessary on voting machines which are largely in use in this state today to use a 100-word caption, we felt that this was a very, very necessary part of the amendment and that there be some constitutional direction here.”

The Address to the People that explained the newly proposed constitution did not discuss the 100-word provision at all.