

## Chief justice says initiatives paralyze state

*Bob Egelko, Chronicle Staff Writer, February 20, 2010*

California Chief Justice Ronald George escalated his criticism of the state's initiative process Friday, saying unrestrained ballot-box lawmaking is paralyzing government.

While nearly half the states allow voters to enact laws, "nowhere is the practice of government by voter initiative as extreme as it is in California," the state Supreme Court's leader said in a keynote speech of a Stanford Law School conference on state constitutions.

The state and its lawmakers "have been placed in a fiscal straitjacket" by a requirement of a two-thirds legislative vote to raise taxes, imposed by Proposition 13 in 1978, George said. He said other ballot measures further tie legislators' hands by reserving specified portions of state spending for public transportation and education.

Initiatives, often funded by special interests who pay signature-gatherers, "have rendered our state government dysfunctional, at least in times of severe economic decline," George said.

The chief justice wrote the court's 4-3 decision in May 2008 that overturned state laws - one passed by the Legislature, one by initiative - banning same-sex marriage. After voters restored the ban in November 2008 by passing Proposition 8, a state constitutional amendment, George wrote a 6-1 ruling in May 2009 that upheld the measure while lamenting the ease and frequency of changes to California's guiding document.

Justice Carlos Moreno, the lone dissenter from that ruling, told The Chronicle in an interview last week that the initiative power was being misused to abridge fundamental rights and harm minorities. Both Moreno and George will be on the state ballot for new 12-year terms in November.

George's comments Friday were similar in tone to his speech at a Cambridge, Mass., forum in October. But he went further at Stanford by questioning whether California should retain the initiative in its current form, and discussing possible changes.

Recalling its California origin in 1911 as a populist weapon to lift legislative strangleholds by railroads and other economic powers, George asked, "Has the voter initiative now become the tool of the very types of special interests it was intended to control, and an impediment to the effective functioning of a true democratic process?"

California, he noted, is one of the few states that allow constitutional amendments by a majority public vote, with no legislative review. It is the only state that prohibits lawmakers from changing or repealing a voter-approved initiative unless the measure specifically authorizes it, he said.

At least, George said, California should consider other states' limits on initiatives. Some states prohibit changing their constitution, or its core provisions, by ballot measure, while others require more than a simple majority vote to pass such amendments, he said.

States have also allowed legislative review of initiatives, before or after passage, and have prohibited payment of signature-collectors, he said.

Unless the process is reined in, George said, California's government may remain hamstrung, with "a lack of accountability on the part of our officeholders and the voting public."

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