

AALS Annual Meeting 2005
Workshop on Democratic Governance

Judicial Review of Direct Democracy

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I. Background

- A. Empirical Note: More Ballot Measures and More Judicial Review
- B. Pacific States and Non-Justiciability

II. Disaggregating Judicial Review: Contextual Differences

- A. Initiative v. Referenda
- B. Constitutional Challenge vs. Statutory Interpretation
- C. Pre- vs. Post-Election Challenges
- D. Substantive v. Procedural Claims
- E. Review By State v. Federal, Elected v. Appointed Judges

III. The Academic Debate

- A. Heightened Standard of Review For Ballot Measures? The Super-Counter-majoritarian Difficulty?

IV. Some Thoughts About Reframing the Debate