

Published May 03 2009

COLUMNIST LLOYD OMDAHL: Too late to challenge intelligence of voters

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The North Dakota Legislature has had more regrets than most states. Five times it submitted proposals to the voters to require more signatures on initiative and referral petitions, and five times the voters refused. More recently, legislators assumed the authority to hold hearings on initiated measures so they could advise the public on the wisdom of each. They hoped they could influence the process, but the tactic had minimal impact.

This brings us to the rhubarb in the 2009 legislative session over the 2008 initiated measure that created an executive board to oversee an anti-tobacco campaign using money from the multi-million dollar lawsuit against the tobacco companies. The money became available to the Legislature in the late 1990s, and the Legislature promptly started using the money for a wide variety of state projects, spending only a fraction on fighting tobacco addiction.

Health organizations around the state, led by former Attorney General Heidi Heitkamp, a principal in winning the lawsuit, became disgusted with the Legislature and initiated a law that created the board and earmarked more of the lawsuit money to fight tobacco. This made the 2009 Legislature unhappy.

Not to be outdone, key legislators decided to revise the initiated measure, something that required a two-thirds vote in both houses. They argued that the state did not need another committee, that this was a poor expenditure of money, and that the voters didn't understand what they were doing.

Now, impeaching the competence of the voters in a democracy is serious business. Once the question is raised, there is no end to the doubts that could be articulated, including the ability of voters to decide issues or to choose state officials, legislators and members of Congress.

In the modern political scene, voters have been fooled often by expensive campaigns and smear tactics. Wrong decisions have been made, but we still believe in elections.

At any rate, 2009 is too late to raise the issue of voter competence. That debate was held and concluded when the voters in 1914 and 1918 approved adding the initiative and referendum to the state Constitution.

At that time, they decided that citizens needed a “gun behind the door” to protect themselves from legislatures. So, arguments over the competence of the voters are 90 years too late.

Since these tools of “direct democracy” were adopted, North Dakota has accepted the decisions of the electorate on 450 measures, whether they were considered in wisdom or ignorance. In all honesty, there are good examples of both.

In the case of the tobacco measure in dispute, it seems that the voters understood enough to know that they favored a stronger anti-tobacco program and that an executive committee was needed because of the track record of the Legislature. Rightly or wrongly, the people have spoken.

This failure of the Legislature to accept the results of a statewide election will lead future sponsors of initiated measures to write self-executing language that will avoid legislative involvement completely.