

Q Does federal law allow churches to lobby for the passage of state ballot initiatives and referenda?

A Yes. Churches are not prohibited from endorsing or opposing ballot initiatives or referenda, such as state marriage amendments. Federal law only prohibits churches from endorsing or opposing candidates.

Q How much involvement can churches have in lobbying to support ballot initiatives and referenda or a particular piece of legislation?

A Federal law allows churches to spend an “insubstantial” amount of their funds on lobbying. An insubstantial amount is generally considered to be five to 15 percent of a church’s funds. Churches may discuss legislative issues, support or oppose legislation or ballot issues, encourage members or the general public to support or oppose legislation or ballot issues, and support other organizations with their lobbying efforts. Furthermore, churches may lobby candidates about issues and distribute educational material to candidates or at political events.

Q Even if federal law doesn’t apply, are there state laws that might regulate churches’ involvement in ballot initiatives and referenda?

A Yes, there may be, depending on your state. Some states require that churches and other organizations register and file disclosures if they spend money to support or oppose a ballot issue, such as a state marriage amendment. Typically, such laws are not triggered until a certain amount is spent, so a church would not have to report unless it spends funds exceeding that threshold. For example, if a church spent \$500 to purchase yard signs for a ballot measure, that might trigger certain reporting requirements. State laws that apply to very minor expenditures (such as a few dollars) in support of a ballot issue or referendum are in many cases unconstitutional, as a recent Alliance Defending Freedom case established in the the U.S. Court of Appeals for the Ninth Circuit.

Q Can a pastor's sermon encouraging his congregation to support a ballot issue be considered lobbying, and therefore subject to state regulation?

A Some state election laws require organizations that lobby on initiatives and referendums to register as a political committee and be subject to reporting and disclosure requirements. In at least one state, that has included a pastor's sermon on a state constitutional amendment ballot initiative to define marriage as the union of a man and a woman. But that state law was held unconstitutional. In many cases, state election law requirements are unconstitutional—as applied to churches—because they subject churches to intrusive disclosure and reporting requirements based on a very small amount of lobbying activity.

Q What should we do if we find our church confronted with a state election law requiring us to register and report for supporting a ballot initiative?

A Contact Alliance Defending Freedom at 1-800-835-5233 or at SpeakUpMovement.org/Church to review your situation.