



In focus

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Like citizens in many other municipalities, the voters of Maui County can pass or repeal laws at the County level through a ballot initiative process. Over a 180-day period, petitions to place an initiative on the ballot must be signed by a number of voters that is equal to at least 20 percent of the ballots cast in the previous mayoral election.

Last year, Maui's citizen initiative process was used for the first time in a contentious election that set Hawaii records for campaign spending. On the November 2014 ballot, a 72-word summary of a 12-page ordinance asked voters to ban genetically modified (GM) crops in Maui County (Islands of Maui, Molokai and Lanai).

The full text of the initiative included several statements that did not have wide support in the agricultural community and banned some crops produced by traditional plant breeding methods. The initiative claimed that the Maui's seed industry practices fundamentally differ from farming for food production, specifically in regard to its use of pesticides and GM crops, is insufficiently regulated by the state and federal governments, and represents a threat to human health and the environment. The initiative sought to establish a moratorium on growing GM crops. Civil fines for violations would range from \$10,000 to \$50,000 per day, and criminal penalties for a misdemeanor conviction could include up to a year in jail, a fine not to exceed \$2,000, or both.



The GM crop ban was described in the initiative as temporary. However, the criteria set for environmental and public health impact studies of GM crops and pesticides would make the ban permanent. This initiative mandated that the required impact studies be funded by the individuals or organizations seeking to amend or repeal the ban on behalf of their specific agricultural operation, and a requirement that each amendment or repeal of the ban receive supermajority approval from the Maui County Council.



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Getting To The Ballot

Supporters of the anti-GM crop initiative included five individuals named in the petition and the SHAKA Movement (Sustainable Hawaiian Agriculture for the Keiki and the Aina). The initiative's opponents included the Hawaii Farm Bureau Federation, the Molokai Chamber of Commerce, and Citizens Against the Maui County Farming Ban, a group funded by seed companies that operate in Maui County (Monsanto and DowAgrosciences) and the Council for Biotechnology Information.

To place the initiative on the November 2014 ballot, more than 9,700 signatures were submitted to the Maui County Clerk on April 7; of these, more than 5,000 were found to be invalid. Faced with a 20-day deadline to gather the names of more than 3,700 additional registered voters, an anonymous donor gave \$20,000 so that signature collectors could be paid \$5.00 per name. By early June, the petition drive had secured the necessary number of valid signatures.

Judge Unconvinced

Almost \$8 million was raised to defeat the anti-GMO measure, more than for any purpose in any previous Hawaii election. A suit filed in Maui's Second Circuit Court failed to convince Judge Rhonda Loo that the initiative's title—Voter Initiative: Genetically Engineered Organisms—was potentially misleading; and the initiative remained on the ballot.

Initiative Passes



In November 2014 the initiative passed by a slim margin of 1077 votes, taking 51 percent of the ballots countywide. On Molokai, where most of the county's seed industry jobs are located, 63 percent of voters opposed the measure.

Temporary Injunction

Within days, the five citizens named on the initiative petition and SHAKA filed suit in state court against Maui County and the county's two seed companies to ensure the ban's rapid implementation and to require Maui County to consult with the initiative's backers. A second suit filed in federal court by a local farmer, the county's two seed companies, agricultural and business associations, and others sought a temporary injunction against the new law's enforcement, which was granted by U.S. District Court Judge Barry M. Kurren in December.



Maui County has opted not to defend the initiative in federal court. After ruling that SHAKA has standing to participate in the federal court case, Judge Kurren reassigned the case to U.S. District Court Judge Susan Oki Mollway. An injunction against the initiative has been extended by Judge Mollway to June 2015, in case new state laws are passed during the Hawaii State Legislature's 2015 session that could affect the federal suit.