

2012 Ballot Propositions

By John G. Matsusaka

Voters decided 186 ballot propositions in 39 states in 2012, approving 63 percent of them. The electorate swung to the left on some issues, with potential breakthrough victories for advocates of marijuana legalization in Colorado and Washington, and same-sex marriage in Maine, Maryland and Washington. Other high-profile issues included taxes, the death penalty and illegal immigration.

Overview

Voters decided 186 ballot propositions in 39 states in 2012, with 174 propositions on ballots in November. The number of propositions was slightly more than the 183 in 2010 and 174 in 2008, but down from the 225 in 2006. Voters approved 63 percent of the measures they faced during the entire year, and 63 percent in November. See Table A for a summary, and Table B for a list of all propositions.

The busiest state was Alabama, with 12 proposed constitutional amendments for the year, all but one of which passed muster with voters. Florida had 11 propositions, California had 10, and Arizona, Louisiana and Oregon had nine propositions each. As is typical, most of the propositions—122—were placed on the ballot by legislatures. Sixty-one propositions were placed on the ballot by citizen petition, consisting of 48 initiatives and 13 referendums.¹ Three measures were placed on the ballot by constitutional requirement. As usual, voters were much more skeptical toward initiatives than legislative propositions, approving only 42 percent of the year's initiatives, compared to 73 percent of legislative measures.

Initiative Trends

Initiatives are the most visible type of ballot proposition and have the greatest impact. They are also the most contentious and attract the lion's share of campaign contributions. Advocates see the initiative process as offering citizens an opportunity to wrest control of government from the special interests they believe dominate the legislature; while opponents see the process as a tool that increases the influence of wealthy and organized interest groups. South Dakota was the first state to adopt the process, in 1898, followed by Utah in 1900 and Oregon in 1902. By 1918, 19 states had adopted the process, and adoption has continued at the rate of about one state every 20 years. Mississippi was the last state to adopt the initiative process, in 1992, bringing the total number of states that allow initiatives to 24.²

The 48 initiatives in 2012 is an increase from 46 in 2010, but below the 68 in 2008 and 78 in 2006. The highest number of initiatives in a single year is 93 in 1996. Figure A shows the number of initiatives by decade, beginning in 1904 when the first initiatives appeared on the ballot in Oregon. Initiatives were common in the first four decades of the 20th century. Many of the initiatives were fueled by tensions between the new urban majorities in many states and the rural interests that controlled state legislatures. Initiative activity tailed off in the middle decades of the century, with only 89 measures from 1961 to 1970. Beginning in the late 1970s, initiative use picked up again, following California's Proposition 13 in 1978 that set off a national tax revolt. Each successive decade set a new record for the number of initiatives, peaking with 389 from 1991 to 2000. Fifty-eight initiatives have reached the ballot so far in the current decade, hinting at a decline in initiative activity from recent levels, but still historically high.

In terms of individual states, Oregon remains the overall leader, having voted on 363 initiatives since adopting the process in 1902. California is a close second with 352 initiatives since adopting the process in 1911. Rounding out the top five are Colorado with 218, North Dakota with 183 and Arizona with 174. Initiative activity remains particularly high in the Western half of the country. East of the Mississippi River, Arkansas has voted on the most initiatives at 121.

Breakthrough Issues

Marijuana

Marijuana legalization may have been the biggest ballot proposition story of 2012. For the first time ever, two states approved propositions that legalized recreational use of marijuana. Colorado's Amendment 64 was approved 55-45 and Washington's I-502 was approved 56-44. A third legaliza-

Table A: State-by-State Totals for 2012

State	Initiatives	Referendums	Legislative measures	Constitutional convention	Total	Notable issues
Alabama (a).....	...	...	12 (11)	...	12 (11)	Environmental trust fund, right to education
Alaska (b).....	2 (1)	...	1 (1)	1 (0)	4 (2)	Transportation bonds, coastal area planning
Arizona.....	2 (0)	...	7 (4)	...	9 (4)	Sales tax increase, crime victims' rights, open primary
Arkansas.....	1 (0)	...	2 (1)	...	3 (1)	Sales tax for road bonds, medical marijuana
California (c).....	12 (5)	1 (1)	...	...	13 (6)	Income and sales tax increase, death penalty, tobacco tax
Colorado.....	2 (2)	...	1 (1)	...	3 (3)	Marijuana legalization, campaigns spending limits
Florida.....	...	...	11 (3)	...	11 (3)	Health care system, public funding abortion, property taxes
Georgia (d).....	...	...	3 (2) (h)	...	3 (2) (h)	Sales tax, charter schools
Hawaii.....	...	...	2 (0)	...	2 (0)	Revenue bonds
Idaho.....	...	3 (0)	2 (2)	...	5 (2)	Teacher evaluation, collective bargaining, online classes
Illinois.....	...	...	1 (0)	...	1 (0)	Public employee pension benefits
Kansas.....	...	...	1 (1)	...	1 (1)	Property tax on boats
Kentucky.....	...	...	1 (1)	...	1 (1)	Right to hunt and fish
Louisiana.....	...	...	9 (8)	...	9 (8)	Gun laws, Medicaid trust fund for elderly
Maine.....	1 (1)	...	4 (3)	...	5 (4)	Same-sex marriage, bond issues
Maryland.....	...	3 (3)	4 (4)	...	7 (7)	Same-sex marriage, tuition for illegal immigrants
Massachusetts.....	3 (2)	...	...	...	3 (2)	Medical marijuana, physician-assisted suicide
Michigan.....	5 (0)	1 (1)	...	...	6 (1)	Right to collective bargaining, renewable energy
Minnesota.....	...	...	2 (0)	...	2 (0)	Same-sex marriage, voter ID
Missouri (e).....	2 (1)	...	3 (2)	...	5 (3)	School prayer, parental notification for abortion
Montana.....	1 (1)	1 (1)	3 (3)	...	5 (5)	Medical marijuana, services for illegal immigrants, abortion
Nebraska.....	...	...	4 (2)	...	4 (2)	Term limits, right to hunt, legislator salaries
Nevada.....	...	...	1 (1)	...	1 (1)	Legislative sessions
New Hampshire.....	...	...	2 (0)	1 (0)	3 (0)	Taxes on income
New Jersey.....	...	...	2 (2)	...	2 (2)	Bonds for colleges, benefits for judges
New Mexico.....	...	...	8 (8)	...	8 (8)	Three bond proposals
North Carolina (f)...	...	...	1 (1)	...	1 (1)	Same-sex marriage
North Dakota (g)...	5 (2)	1 (1)	3 (3)	...	9 (6)	Property taxes, smoking limits, farming rights
Ohio.....	1 (0)	...	...	1 (0)	2 (0)	Redistricting
Oklahoma.....	...	...	6 (6)	...	6 (6)	Racial preferences, property taxes
Oregon.....	7 (2)	...	2 (2)	...	9 (4)	Marijuana legalization, casinos, estate tax
Rhode Island.....	...	...	7 (7)	...	7 (7)	Slot parlors, five bond proposals
South Carolina.....	...	...	1 (1)	...	1 (1)	Governor and Lt Governor election
South Dakota.....	1 (0)	2 (0)	4 (2)	...	7 (2)	Sales tax increase, teacher evaluation system
Utah.....	...	...	2 (2)	...	2 (2)	Severance tax revenue, property tax exemption
Virginia.....	...	...	2 (2)	...	2 (2)	Eminent domain limit
Washington.....	3 (3)	1 (1)	4 (1)	...	8 (5)	Marijuana legalization, same-sex marriage, charter schools
West Virginia.....	...	...	1 (0)	...	1 (0)	Term limits for sheriffs
Wyoming.....	...	...	3 (2)	...	3 (2)	Right to hunt and fish, health care mandates
Total.....	48 (20)	13 (8)	122 (89)	3 (0)	186 (117)	

Source: Initiative & Referendum Institute (www.iandrinstitute.org).

Note: The table reports the total number of propositions during 2012. Except as noted below, all propositions appeared on the ballot on November 6. The main entry is the number of propositions appearing; the number approved is in parentheses. A referendum in which the original law was retained is considered to have been "approved."

Key:

(a) Alabama: includes one legislative measure from September 18 that was approved.

(b) Alaska: includes two initiatives from August 28, one of which was approved.

(c) California: includes two initiatives from June 5, one of which was approved.

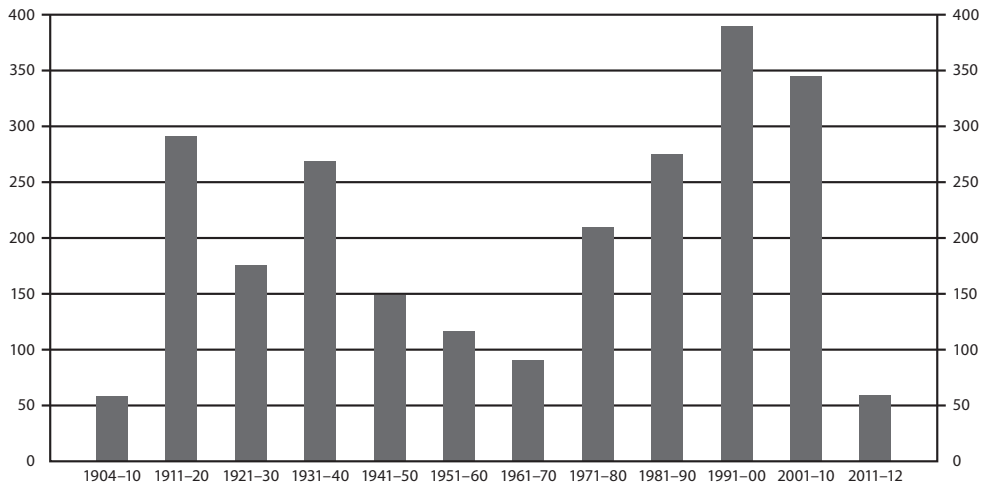
(d) Georgia: includes one legislative measure from July 31 that was partially approved.

(e) Missouri: includes one legislative measure from August 7 that was approved.

(f) North Carolina: includes one legislative measure from May 8 that was approved.

(g) North Dakota: includes four measures from June 12, one legislative measure (approved), two initiatives (both failed), and one referendum (approved).

(h) Georgia's July ballot measure was approved by 3 of 12 regions, here classified as not approved.

Figure A: Number of Initiatives by Decade

Source: Initiative & Referendum Institute.

tion initiative, Oregon's Measure 80, was rejected 47-53. The approval of these initiatives represents a breakthrough in a decades-long campaign by legalization advocates, and hints that the public may be rethinking how to approach the issue of drugs. In 2008, Massachusetts voters approved Question 2 that decriminalized small amounts of marijuana, making possession of less than one ounce subject only to a \$100 fine. In 2010, California voters narrowly rejected (47-53) Proposition 19 that would have legalized personal use. Legalization initiatives in the more distant past had failed by large margins. Reformers hope that over time, the experience of Colorado and Washington will demonstrate that decriminalization does not increase crime and addiction, and that will encourage other states to follow suit. A wild card is what position federal authorities will take because federal law prohibits possession of marijuana.

Medical marijuana advocates scored victories in Massachusetts (Question 3) and Montana (IR-124), where voters approved laws enabling medical use of marijuana. Before Election Day, 17 states permitted medical marijuana. Arkansas voters narrowly rejected—49-51—Issue 5, which would have

made Arkansas the first Southern state to permit medical marijuana.

Same-Sex Marriage

Another big story from the election is same-sex marriage, as gay marriage advocates achieved their first victory at the polls after a long run of defeats across the country. Surveys suggest public opinion has shifted dramatically in support of gay marriage over the past decade, yet before Nov. 6, all state-level victories for same-sex marriage have come from courts or legislatures. Before 2012, citizens had voted to ban gay marriage in 30 of 31 proposition elections. See Table C for a complete list of same-sex marriage propositions.

On Nov. 6, Maine voters approved Question 1, an initiative legalizing gay marriage, by a 53-47 margin. Maryland and Washington voters affirmed same-sex marriage laws approved by their state legislatures, turning back referendums that would have repealed the laws—52-48 in Maryland and 54-46 in Washington. A third victory for gay rights occurred in Minnesota, where voters rejected Amendment 1, which would have banned same-sex marriage. Gay marriage proponents hope these

Table B: Complete List of Statewide Ballot Propositions in 2012

<i>State</i>	<i>Type</i>	<i>Result</i>	<i>Short description</i>
Alabama			
Amendment (Sept. 18)	L/CA	Approved 65-35	Authorizes state to transfer \$145.8 million from Alabama Trust Fund.
Amendment 1	L/CA	Approved 75-25	Extends payments of natural gas royalties to Forever Wild Land Trust.
Amendment 2	L/CA	Approved 69-31	Increases bond limit to \$750 million.
Amendment 3	L/CA	Approved 68-32	Defines Stockton Landmark District.
Amendment 4	L/CA	Failed 39-61	Removes constitutional language declaring right to education.
Amendment 5	L/CA	Approved 69-31	Transfers assets and liabilities of city of Prichard to city of Mobile.
Amendment 6	L/CA	Approved 59-41	Prohibits mandatory participation in health care system.
Amendment 7	L/CA	Approved 67-33	Requires secret ballots in union elections.
Amendment 8	L/CA	Approved 69-31	Sets legislator salaries to median household income in the state.
Amendment 9	L/CA	Approved 58-42	Reaffirms legislature's authority to pass laws relating to corporations.
Amendment 10	L/CA	Approved 54-46	Removes some restrictions on legislature's power to regulate banks.
Amendment 11	L/CA	Approved 66-34	Prohibits certain taxes and regulations in Lawrence County.
Alaska			
Ballot Measure 1 (Aug. 28)	I/ST	Approved 50.1-49.9	Allows cities to increase property tax exemption with voter approval.
Ballot Measure 2 (Aug. 28)	I/ST	Failed 38-62	Creates Alaska Coastal Management Program.
Bonding Proposition A	L/ST	Approved 58-42	\$453,499,200 bond issue for transportation projects.
Ballot Measure 1	X	Failed 33-67	Calls a constitutional convention.
Arizona			
Prop 114	L/CA	Approved 80-20	Crime victims not subject to damage claims from criminals.
Prop 115	L/CA	Failed 28-72	Increases length of terms for judges.
Prop 116	L/CA	Failed 44-56	Limits personal property tax exemption.
Prop 117	L/CA	Approved 57-43	Lowers the assessed value of property.
Prop 118	L/CA	Approved 51-49	Sets annual distribution from state permanent funds.
Prop 119	L/CA	Approved 62-38	Allows state to exchange public lands to protect military facilities.
Prop 120	L/CA	Failed 32-68	Declares state's sovereignty over natural resources within its border.
Prop 121	I/CA	Failed 33-67	Establishes "top two" primary election system.
Prop 204	I/ST	Failed 36-64	Renews 1 cent sales tax with revenue dedicated to schools.
Arkansas			
Issue 1	L/CA	Approved 58-42	0.5% sales tax for road projects.
Issue 2	L/CA	Failed 43-57	Authorizes bond issues by local districts.
Issue 5	I/ST	Failed 49-51	Allows medical marijuana.
California			
Prop 28 (June 5)	I/CA	Approved 61-39	Allows legislators to serve longer terms in one house.
Prop 29 (June 5)	I/ST	Failed 49.8-50.2	Imposes 5 cent/cigarette tax to fund cancer research.
Prop 30	I/CA	Approved 55-45	Increases income and sales tax temporarily.
Prop 31	I/CA+ST	Failed 39-61	Various reforms to budget process.
Prop 32	I/ST	Failed 43-57	Prohibits use of payroll-deducted union funds for political purposes.
Prop 33	I/ST	Failed 45-55	Permits insurance premiums to depend on previous coverage.
Prop 34	I/ST	Failed 48-52	Abolishes death penalty.
Prop 35	I/ST	Approved 81-19	Increases criminal penalties for human trafficking.
Prop 36	I/ST	Approved 69-31	Weakens three-strikes law.
Prop 37	I/ST	Failed 49-51	Requires labels on genetically modified food.
Prop 38	I/ST	Failed 29-71	Increases income tax rates for 12 years.
Prop 39	I/ST	Approved 61-39	Increase corporate taxes, spends \$2.8 billion on clean energy.
Prop 40	R/ST	Approved 72-28	Confirms state senate district lines.
Colorado			
Amendment S	L/CA	Approved 56-44	Miscellaneous changes to state personnel system.
Amendment 64	I/CA	Approved 55-45	Legalizes marijuana for recreational use.
Amendment 65	I/CA	Approved 74-26	Call for campaign spending limits.

See footnotes at end of table.

Complete List of Statewide Ballot Propositions in 2012, Continued

<i>State</i>	<i>Type</i>	<i>Result</i>	<i>Short description</i>
Florida			
Amendment 1	L/CA	Failed 49-51	Prohibits mandatory participation in a health care system.
Amendment 2	L/CA	Approved 63-37	Extends eligibility for property tax exemption to veterans.
Amendment 3	L/CA	Failed 42-58	Bases expenditure limit on inflation instead of income growth.
Amendment 4	L/CA	Failed 43-57	Places more limits on increases in property tax assessments.
Amendment 5	L/CA	Failed 37-63	Rules of court, judicial appointments, and judicial impeachment.
Amendment 6	L/CA	Failed 45-55	Prohibits use of public funds to pay for abortions.
Amendment 8	L/CA	Failed 45-55	Prohibits denial of government benefits based on religion.
Amendment 9	L/CA	Approved 62-38	Authorizes property tax relief to spouse of certain military veterans.
Amendment 10	L/CA	Failed 45-55	Increases personal property tax exemption.
Amendment 11	L/CA	Approved 61-39	Allows property tax relief for low income elderly homeowners.
Amendment 12	L/CA	Failed 42-58	Changes student representation on state university board of governors.
Georgia			
Referendum 1 (July 31)	L/ST	See note (a)	T-SPLIST: Local sales tax for transportation projects.
Amendment 1	L/CA	Approved 59-41	Authorizes legislature to create charter schools.
Amendment 2	L/CA	Approved 64-36	Authorizes state agencies to enter into multiyear rental agreements.
Hawaii			
Amendment	L/CA	Failed 55-45 (b)	Authorizes revenue bonds to repair dams and reservoirs.
Amendment	L/CA	Failed 55-45 (b)	Authorizes chief justice to appoint temporary emeritus judges.
Idaho			
SJR 102	L/CA	Approved 74-26	Assigns probation decisions to state board of correction.
HJR 2aa	L/CA	Approved 73-27	Establishes a right to hunt and fish.
Prop 1	R/ST	Failed 43-57	To confirm law restricting teacher collective bargaining.
Prop 2	R/ST	Failed 42-58	To confirm law providing performance pay for teachers.
Prop 3	R/ST	Failed 33-67	To confirm law requiring students to take online courses.
Illinois			
Amendment	L/CA	Failed 44-56 (c)	Requires three-fifths vote of legislature to increase pension benefits.
Kansas			
Amendment	L/CA	Approved 53-47	Reduces property tax on boats.
Kentucky			
Amendment	L/CA	Approved 84-16	Establishes a right to hunt and fish.
Louisiana			
Amendment 1	L/CA	Approved 71-29	Prohibits diversion of Medicaid trust fund revenue.
Amendment 2	L/CA	Approved 73-27	Limits court decisions relating to guns.
Amendment 3	L/CA	Approved 64-36	Requires advance filing of bills on public retirement system.
Amendment 4	L/CA	Approved 74-26	Expands property tax exemption for spouses of veterans.
Amendment 5	L/CA	Approved 70-30	No retirement benefits to public employees who committed felony in office.
Amendment 6	L/CA	Failed 42-58	Property tax exemption in city of New Iberia.
Amendment 7	L/CA	Approved 61-39	Changes composition of constitutional boards and commissions.
Amendment 8	L/CA	Approved 52-48	Property tax exemption for businesses selling out of state.
Amendment 9	L/CA	Approved 56-44	Procedural requirements for creation of a special district.
Maine			
Question 1	I/ST	Approved 53-47	Permits same-sex marriage.
Question 2	L/ST	Failed 49-51	\$11.3 M bond issue for higher education.
Question 3	L/ST	Approved 61-39	\$5 M bond issue for land conservation.
Question 4	L/ST	Approved 72-28	\$51.5 M for transportation projects.
Question 5	L/ST	Approved 63-37	\$7,925,000 bond issue for water projects.

See footnotes at end of table.

Complete List of Statewide Ballot Propositions in 2012, Continued

<i>State</i>	<i>Type</i>	<i>Result</i>	<i>Short description</i>
Maryland			
Question 1	L/CA	Approved 88-12	Requires judges in Prince George's County to be practicing lawyers.
Question 2	L/CA	Approved 88-12	Requires judges in Baltimore County to be practicing lawyers.
Question 3	L/CA	Approved 88-12	Removal from office of elected officials convicted of crimes.
Question 4	R/ST	Approved 59-41	To confirm law allowing illegal aliens to pay in-state tuition.
Question 5	R/ST	Approved 64-36	To confirm new congressional district lines.
Question 6	R/ST	Approved 52-48	To confirm law permitting same-sex marriage.
Question 7	L/ST	Approved 52-48	Expands commercial gaming in Prince George's County.
Massachusetts			
Question 1	I/ST	Approved 86-14	Requires used car dealers to provide repair history.
Question 2	I/ST	Failed 49-51	Permits physician-assisted suicide.
Question 3	I/ST	Approved 63-37	Permits medical use of marijuana.
Michigan			
Proposal 12-1	R/ST	Failed 47-53	To confirm special powers for local governments in emergencies.
Proposal 12-2	I/CA	Failed 43-57	Establishes right to collective bargaining for public and private sector.
Proposal 12-3	I/CA	Failed 38-62	Requires utilities to obtain 25% of electricity from clean energy sources.
Proposal 12-4	I/CA	Failed 44-56	Regulates home care providers.
Proposal 12-5	I/CA	Failed 31-69	Requires 2/3 vote of legislature for new taxes.
Proposal 12-6	I/CA	Failed 41-59	Requires referendum to construct international bridges and tunnels.
Minnesota			
Amendment 1	L/CA	Failed 48-52	Bans same-sex marriage.
Amendment 2	L/CA	Failed 47-53	Requires voters to show identification at polls in order to vote
Missouri			
Amendment 2 (Aug. 7)	L/CA	Approved 83-17	Declares the right to express religious beliefs, pray in school.
Amendment 3	L/CA	Failed 24-76	Gives governor more control over selection of judicial commission.
Prop A	I/ST	Approved 64-36	Allows city of St. Louis to establish municipal police force.
Prop B	I/ST	Failed 49-51	Increases tobacco taxes, dedicates revenue to health education.
Prop E	L/ST	Approved 62-38	Requires legislature or voters to approve health care exchange.
Montana			
LR-120	L/ST	Approved 71-29	Requires parental notification before abortion by minor.
LR-121	L/ST	Approved 80-20	Denies state services to illegal immigrants.
LR-122	L/ST	Approved 67-33	Prohibits mandatory participation in a health care system.
IR-124	R/ST	Approved 57-43	To confirm law limiting medical marijuana.
I-166	I/ST	Approved 75-25	Declares that corporations do not have constitutional rights.
Nebraska			
Amendment 1	L/CA	Approved 83-17	Impeachment allowed for misdemeanor in pursuit of a government office.
Amendment 2	L/CA	Approved 77-23	Establishes a right to fish, trap, and hunt.
Amendment 3	L/CA	Failed 35-65	Weakens legislative term limits.
Amendment 4	L/CA	Failed 32-68	Raises annual salary of state legislators from \$12,000 to \$22,500.
Nevada			
Ballot Question 1	L/CA	Approved 54-46	Allows legislature to convene a special legislative session.
New Hampshire			
Amendment 1	L/CA	Failed 43-57 (d)	Makes chief justice the administrative head of state courts.
Amendment 2	L/CA	Failed 49-51	Prohibits new taxes on personal income.
Question 3	X	Failed 36-64	Calls a constitutional convention.
New Jersey			
Public Question 1	L/ST	Approved 63-37	\$750 M bond issue for state colleges.
Public Question 2	L/CA	Approved 83-17	Allows benefit contributions to be deducted from salaries of judges.

See footnotes at end of table.

Complete List of Statewide Ballot Propositions in 2012, Continued

<i>State</i>	<i>Type</i>	<i>Result</i>	<i>Short description</i>
New Mexico			
Amendment 1	L/CA	Approved 60-40	Adds two members to judicial standards commission.
Amendment 2	L/CA	Approved 81-19	Increases required qualifications for public regulation commissioners.
Amendment 3	L/CA	Approved 51-49	Removes authority of public regulation commission to regulate corporations.
Amendment 4	L/CA	Approved 51-49	Removes authority of public regulation commission to regulate insurance.
Amendment 5	L/CA	Approved 62-38	Establishes a public defender department.
Bond Question A	L/ST	Approved 63-37	\$10,335,000 bond issue for senior citizen facilities.
Bond Question B	L/ST	Approved 62-38	\$9,830,000 bond issue for library acquisition and construction.
Bond Question C	L/ST	Approved 61-39	\$120 million bond issue for higher education and special schools.
North Carolina			
Amendment 1 (May 8)	L/CA	Approved 61-39	Bans same-sex marriage.
North Dakota			
Constitutional Measure 1 (June 12)	L/CA	Approved 60-40	Limits appointment of legislators to certain offices.
Initiated Constitutional Measure 2 (June 12)	I/CA	Failed 23-77	Replaces property taxes with income and sales taxes.
Initiated Constitutional Measure 3 (June 12)	I/CA	Failed 36-64	Prohibits government from withholding benefits to religious organizations.
Referendum Measure 4 (June 12)	R/ST	Approved 67-33	To confirm removal of "Fighting Sioux" nickname for University of North Dakota.
Constitutional Measure 1	L/CA	Approved 71-29	Repeals provision allowing poll tax.
Constitutional Measure 2	L/CA	Approved 89-11	Requires executive officials to take oath of office.
Initiated Constitutional Measure 3 (June 12)	I/CA	Approved 67-33	Declares the right to engage in modern farming and ranching.
Initiated Statutory Measure 4	I/ST	Approved 67-33	Prohibits smoking in public and work places.
Initiated Statutory Measure 5	I/ST	Failed 35-65	Makes it a felony to maliciously harm a dog, cat, or horse.
Ohio			
Issue 1	X	Failed 32-68	Calls a constitutional convention.
Issue 2	I/CA	Failed 37-63	Creates a bipartisan state redistricting commission.
Oklahoma			
State Question 758	L/CA	Approved 68-32	Limits property tax increases to no more than 3% per year.
State Question 759	L/CA	Approved 59-41	Prohibits discrimination/preferential treatment based on race, sex, ethnicity.
State Question 762	L/CA	Approved 59-41	Removes governor from state parole process.
State Question 764	L/CA	Approved 57-43	Authorizes \$300 million bond issue by water resources board.
State Question 765	L/CA	Approved 60-40	Authorizes creation of state public welfare commission.
State Question 766	L/CA	Approved 65-35	Exempts intangible property from taxation.
Oregon			
Measure 77	L/CA	Approved 59-41	Provides processes for government action in event of a disaster.
Measure 78	L/CA	Approved 72-28	Modernizes terminology and spelling in constitution.
Measure 79	I/CA	Approved 59-41	Prohibits new real estate transfer taxes.
Measure 80	I/ST	Failed 47-53	Legalizes marijuana possession and sales.
Measure 81	I/ST	Failed 35-65	Prohibits gill net fishing in inland waters.
Measure 82	I/CA	Failed 28-72	Authorizes privately owned casinos if approved by local voters.
Measure 83	I/ST	Failed 29-71	Authorizes a specific individual to operate a privately owned casino.
Measure 84	I/ST	Failed 46-54	Phases out inheritance/estate taxes on large estates.
Measure 85	I/CA	Approved 60-40	Allocates unanticipated corporate income tax revenue to education.

See footnotes at end of table.

Complete List of Statewide Ballot Propositions in 2012, Continued

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Rhode Island			
Question 1	L/CA	Approved 71-29	Permits Twin River slot parlor to become a full casino.
Question 2	L/CA	Approved 67-33	Permits Newport Grand slot parlor to become a full casino.
Question 3	L/ST	Approved 66-34	\$50 million bond issue for higher education facilities.
Question 4	L/ST	Approved 77-23	\$90 million bond issue for veterans' homes.
Question 5	L/ST	Approved 74-26	\$20 million bond issue for water projects.
Question 6	L/ST	Approved 70-30	\$20 million bond issue for land conservation.
Question 7	L/ST	Approved 62-38	\$25 million bond issue to provide affordable homes.
South Carolina			
Amendment 1	L/CA	Approved 56-44	Requires governor/lt. governor to run for office together.
South Dakota			
Amendment M	L/CA	Failed 30-70	Removes requirements concerning governance of corporations.
Amendment N	L/CA	Failed 37-63	Allows legislature to set mileage reimbursement rate for legislators.
Amendment O	L/CA	Approved 57-43	Sets required transfer from cement plant trust fund to general fund.
Amendment P	L/CA	Approved 65-35	Requires state to propose and approve balanced budget.
Initiated Measure 15	I/ST	Failed 43-57	Increases sales tax with revenue for education and health.
Referred Law 14	R/ST	Failed 42-58	To confirm law that reallocates contractors' excise tax payments.
Referred Law 16	R/ST	Failed 33-67	To confirm teacher evaluation law that eliminates tenure.
Utah			
Amendment A	L/CA	Approved 51-49	Allocates some severance tax revenue to permanent trust fund.
Amendment B	L/CA	Approved 68-32	Provides a property tax exemption for persons in military.
Virginia			
Question 1	L/CA	Approved 74-26	Prohibits use of eminent domain to transfer property to a private use.
Question 2	L/CA	Approved 82-18	Restricts delays in start of "veto" sessions of legislature.
Washington			
I-1185	I/ST	Approved 64-36	Requires 2/3 legislative vote or popular vote to raise taxes.
I-1240	I/ST	Approved 51-49	Authorizes creation of 40 charter schools over next five years.
R-74	R/ST	Approved 54-46	To confirm law legalizing same-sex marriage.
I-502	I/ST	Approved 56-44	Legalizes production, possession, and use of marijuana.
SJR 8221	L/CA	Approved 63-37	Reduces maximum level of state debt.
SJR 8223	L/CA	Failed 44-56	Authorizes universities to invest funds.
Advisory Vote 1	L/Adv	Failed 43-57	To maintain a tax deduction for financial institutions.
Advisory Vote 2	L/Adv	Failed 45-55	To maintain a tax on petroleum products.
West Virginia			
Amendment 1	L/CA	Failed 48-52	Removes term limits on sheriffs.
Wyoming			
Amendment A	L/CA	Approved 77-23	Prohibits mandatory participation in a health care system.
Amendment B	L/CA	Approved 89-11	Establishes a right to hunt, fish, and trap wildlife.
Amendment C	L/CA	Failed 42-58 (e)	Expands duties of district court commissioner.

Source: Initiative & Referendum Institute.

Key:

I – Initiative

L – Legislative measure

R – Referendum

CA – Constitutional amendment

ST – Statute

X – Constitutional requirement

Adv – Advisory

(a) T-SPLIST (Transportation Special-Purpose Local-Option Sales Tax). Approved in three of 12 regions.

(b) Hawaii requires approval by majority of all ballots (including blank ballots and overvotes).

(c) Illinois' amendment required 60% in favor to pass.

(d) New Hampshire requires two-thirds in favor to be approved.

(e) Wyoming requires approval by majority of all ballots (including blank ballots).

are the breakthrough victories that trigger a wave of legalization across the country.

Spotlight on California

California, given its size and culture of citizen law-making, has given birth to some of the most famous and controversial ballot propositions and is always watched nationally for emerging trends. The state's November 2012 ballot was filled with a wide variety of high-profile issues that attracted more than \$390 million in campaign spending. Table D provides a summary of campaign contributions for the state's 11 propositions.

Most attention focused on Propositions 30 and 38, both of which proposed temporary tax increases in order to relieve an imbalance between spending and revenue, and channel more money to education. Proposition 30, sponsored by Gov. Jerry Brown, proposed to increase the income tax on annual income higher than \$250,000 for seven years and increase the sales tax by 0.25 percent for four years. The proposition was supported by public employee unions, who provided most of the funding and was opposed by taxpayer groups. Proposition 38, sponsored by lawyer and education activist Molly Munger, proposed to raise income taxes across the board for 12 years, dedicating 60 percent of the new revenue to education. Proposition 38 was opposed by Brown's coalition, partly out of fear that it might confuse voters and lead to the defeat of both tax measures. Spending on the two propositions approached record levels, with more than \$100 million raised for and against Prop 30, and \$48 million (almost all from Munger) raised for and against Prop 38. Voters gave the governor a clear win, approving Prop 30 by a 55-45 margin and rejecting Prop 38 by a 29-71 margin.

Another fiercely contested measure was Proposition 32, which would have prohibited union dues from being used for political purposes without express approval of members, and prohibited individuals and organizations that do business with the state from contributing to campaigns. Public employee unions treated Prop 32 as a mortal threat, channeling about \$70 million into the campaign against the measure; total spending on Prop 32 exceeded \$100 million. Voters rejected the initiative by a 43-57 margin, a wider gap than for similar measures in 1998 and 2005—both of which were rejected by a 47-53 margin.

Another high-profile initiative was Proposition 34, which proposed to abolish capital punishment in the state. The initiative statute would have been

retroactive, converting all existing death row sentences to life imprisonment without the possibility of parole. Proponents argued that taxpayers would save up to \$100 million per year by converting death row inmates to lifetime terms. Voters rejected the proposition by a 48-52 margin. California is one of 33 states that currently permit capital punishment.

Proposition 37 proposed to require labels on food made from genetically modified organisms—also known as GMO. Proponents argued that the law gives consumers the right to know how their food has been produced, but would not restrict choices by banning the sale of GMO food. Early surveys showed strong support for the measure, but support eroded dramatically in the final stages of the campaign in the face of a strong campaign against the measure that raised \$46 million, largely from grocers and food manufacturers. Opponents, including the American Medical Association, argued that there was no basis for stigmatizing GMO food and that doing so could even be harmful by stunting the development of GMO food. The measure was opposed by most of the major newspapers in the state. Voters narrowly rejected the proposition by a 49-51 margin on Election Day.

Proposition 39 proposed eliminating a loophole that allowed multistate firms to avoid taxes through certain accounting choices, estimated to cost the state about \$1 billion per year in lost tax revenue. The proposition also dedicated \$550 million annually for five years for clean energy projects. The measure was largely funded by hedge fund manager Tom Steyer, who contributed \$32.3 million to the campaign in favor of the measure; there was virtually no organized opposition. Voters approved the proposition 61-39.

One of the ongoing concerns with the initiative process is the ability of wealthy individuals to single-handedly place an issue on the ballot and possibly “buy” favorable laws. Steyer's victory provides some support for these concerns, but at the same time, other individuals who made significant contributions in 2012—Molly Munger in favor of Prop 38, George Joseph in favor of Prop 33 and Charles Munger in favor of Prop 32—failed to gain approval for their proposals.

Government Finances

Fiscal issues have always featured prominently in ballot propositions. Taxes remained the most prevalent issue in 2012, with more than 30 tax- or spending-related measures going before the voters. Most of the measures proposed small changes to

Table C: Complete List of Propositions to Prohibit or Permit Same-Sex Marriage

<i>State</i>	<i>Year</i>	<i>Measure</i>	<i>Vote</i>	<i>Source</i>	<i>Proposal</i>
Alaska.....	1998	Ballot Measure 2	68-32	Legislature	Prohibit
Hawaii.....	1998	Amendment 2	69-31	Legislature	Prohibit
California.....	2000	Proposition 22	61-39	Initiative	Prohibit
Nebraska.....	2000	Initiative 416	70-30	Initiative	Prohibit
Nevada.....	2000	Question 2	70-30	Initiative	Prohibit
Nevada.....	2002	Question 2	67-33	Initiative	Prohibit
Arkansas.....	2004	Amendment 3	75-25	Initiative	Prohibit
Georgia.....	2004	Amendment 1	77-23	Legislature	Prohibit
Kentucky.....	2004	Amendment 1	75-25	Legislature	Prohibit
Louisiana.....	2004	Amendment 1	78-22	Legislature	Prohibit
Michigan.....	2004	Proposal 04-2	59-41	Initiative	Prohibit
Mississippi.....	2004	Amendment 1	86-14	Legislature	Prohibit
Missouri.....	2004	Amendment 2	71-29	Legislature	Prohibit
Montana.....	2004	CI-96	67-33	Initiative	Prohibit
North Dakota.....	2004	Amendment 1	68-32	Initiative	Prohibit
Ohio.....	2004	Issue 1	62-38	Initiative	Prohibit
Oklahoma.....	2004	Question 711	76-24	Legislature	Prohibit
Oregon.....	2004	Measure 36	57-43	Initiative	Prohibit
Utah.....	2004	Amendment 3	66-34	Legislature	Prohibit
Kansas.....	2005	Amendment	70-30	Legislature	Prohibit
Texas.....	2005	Proposition 2	76-24	Legislature	Prohibit
Alabama.....	2006	Amendment	81-19	Legislature	Prohibit
Arizona.....	2006	Proposition 107	48-52	Initiative	Prohibit
Colorado.....	2006	Amendment 43	55-45	Initiative	Prohibit
Idaho.....	2006	HJR 2	63-37	Legislature	Prohibit
South Carolina.....	2006	Amendment 1	78-22	Legislature	Prohibit
South Dakota.....	2006	Amendment C	52-48	Legislature	Prohibit
Tennessee.....	2006	Amendment 1	81-19	Legislature	Prohibit
Virginia.....	2006	Ballot Question 1	57-43	Legislature	Prohibit
Wisconsin.....	2006	NA	59-41	Legislature	Prohibit
Arizona.....	2008	Proposition 102	56-44	Legislature	Prohibit
California.....	2008	Proposition 8	52-48	Initiative	Prohibit
Florida.....	2008	Amendment 2	62-38	Initiative	Prohibit
Maine.....	2009	Question 1	53-47	Referendum	Prohibit
Maine.....	2012	Question 1	53-47	Initiative	Permit
Maryland.....	2012	Question 6	52-48	Referendum	Permit
Minnesota.....	2012	Amendment 1	48-51	Legislature	Prohibit
North Carolina.....	2012	Amendment 1	61-39	Legislature	Prohibit
Washington.....	2012	R-74	54-46	Referendum	Permit

Source: Initiative & Referendum Institute (www.iandrinstitute.org).

the tax code, such as providing a property tax exemption to spouses of veterans who died in combat.

Election returns showed voters willing to consider new taxes, but for the most part they remained hesitant to tax themselves more. The most pro-tax result, as discussed above, was in California, where voters approved Proposition 30, which increased both income and sales taxes on a temporary basis. However, the main taxes in that proposition—on income—were targeted at those earning more than \$250,000, so impacted only a tiny fraction of the population. A more expansive measure, Proposition 38, which would have increased income taxes for everyone in the state, was crushed at the polls.

Also on the pro-tax side, Arkansas voters approved by a 58-42 margin a 0.5 percent sales tax increase to fund a \$1.3 billion bond issue for roads and transportation projects.

On the anti-tax side, Arizona voters soundly rejected Proposition 204—by a 36-64 margin—that would have made permanent a temporary sales tax increase from 5.5 percent to 6.5 percent that is due to expire in 2013, and would have mandated annual increases in state education spending. South Dakota voters rejected Initiated Measure 15 by a 43-57 margin; it would have increased the state sales tax from 4 percent to 5 percent with revenue dedicated to education and health care. Missouri

Table D: Campaign Contributions for California Ballot Propositions, November 2012

Prop	Subject	Contributions (\$ millions)			Vote
		For	Against	Total	
30	Gov. Brown tax increase	58.4	44.5	102.9	Approved 55-45
31	Budget cycles +	2.8	0.3	3.1	Failed 39-61
32	Union dues	35.3	70.3	105.6	Failed 43-57
33	Car insurance	24.9	0.3	25.2	Failed 45-55
34	Death penalty	8.3	0.4	8.7	Failed 48-52
35	Human trafficking	3.1	0	3.1	Approved 81-19
36	Three strikes revision	2.4	0.1	2.5	Approved 69-31
37	GMO food labeling	9.4	46.1	55.5	Failed 49-51
38	Munger tax increase	47.6	< 0.1	47.6	Failed 29-71
39	Corporate taxes, clean energy	33.8	< 0.1	33.8	Approved 61-39
40	Redistricting referendum	0.7	2.3	3.0	Approved 72-28
Total		226.7	164.3	391.0	

Source: Author's calculations based on campaign finance filings available on website of California Secretary of State.
Note: If a campaign committee was involved in multiple campaigns, its money is apportioned equally across the different campaigns.

voters rejected Proposition B by a 49-51 margin; that proposal would have increased tobacco taxes by \$1 per pack, with revenue dedicated to health education. Similarly, in June 2012, California voters rejected Proposition 29, which would have increased tobacco taxes by \$1 per pack, with revenue dedicated to cancer research.

While voters seemed hesitant to raise taxes, they were not necessarily supportive of tax cuts. Oregon voters rejected by a 46-54 margin Measure 84, which would have eliminated estate/inheritance taxes. In June, North Dakota voters soundly rejected Initiated Constitutional Measure 2, which would have eliminated all property taxes and replaced them with a mix of income, sales and other taxes. Oklahoma voters did approve State Question 758, which limits growth of property taxes to 3 percent annually, down from the current limit of 5 percent annually.

Many states require voter approval before state bonds can be issued. Since the onset of the financial crisis and recession, legislators have been cautious about proposing new bond issues. In 2010, voters approved only \$2 billion in new bonds, compared to \$13 billion in 2008 and \$43 billion in 2006. In 2012, legislatures in seven states placed 16 bond proposals before the voters, with a total authorization to borrow of \$3.2 billion. The largest proposal, \$1.3 billion for roads and highways, came from the relatively small state of Arkansas. The measure

included a 0.5 percent sales tax increase to fund debt repayment. Other large proposals were New Jersey's measure to borrow \$750 million for colleges and Alaska's Bonding Proposition A to borrow \$453 million for transportation projects. On Nov. 6, voters approved 15 of 16 bond proposals, with only Maine's Question 2 that proposed \$11.3 million for higher education going down to defeat. The almost clean sweep for bond proposals suggests that voters may be more open to taking on debt, and may encourage legislatures to propose more borrowing in coming years.

Other Issues of Interest

Illegal Immigrants

Voters sent mixed messages about illegal immigrants. In 2011, Maryland's legislature passed Senate Bill 167, which allowed illegal immigrants to pay in-state tuition at state universities if they attended high school in the state and their parents paid taxes. On November 6, the state's voters resoundingly approved, by a 59-41 tally, Question 4, the so-called Dream Act Referendum, which gave voters the option to approve or repeal Senate Bill 167. But by an even larger margin—80-20, Montana voters approved LR-121, which denies state services to illegal immigrants. The law requires individuals who apply for state services to provide proof of citizenship. Legal challenges are expected to test the constitutionality of LR-121.

BALLOT PROPOSITIONS

Gambling

Gambling is another perennially popular topic for ballot propositions. There were 14 gambling-related measures during the period 2008–2011, and five more in 2012. Maryland voters narrowly approved Question 7, which allows a new casino in Prince George’s County. Rhode Island approved two ballot measures that permit slot parlors to become full service casinos in the town of Lincoln and city of Newport. Gaming interests suffered a setback in Oregon, where voters rejected two initiatives that would have allowed privately owned casinos. Two initiatives in Arkansas that would have allowed specific companies to operate casinos were on the ballot, but their petitions were ruled insufficient and their votes were not counted.

Suicide

Massachusetts’ “Death with Dignity” Question 2, an initiative statute that would have allowed a terminally ill person to be given a lethal injection, was rejected in a close election by a 51-49 margin. Five states have held votes on physician-assisted suicide, beginning with Washington in 1991. Washington voters rejected the idea the first time around but approved it 2008. Oregon voters also legalized this form of suicide in 1994. California and Michigan voters rejected similar proposals in the 1990s.

Unions

Unions and union-related issues continue to be fought through ballot propositions, with 2012 providing wins and losses for both sides. Unions won big in California, where voters decisively rejected Proposition 32, which would have prohibited union dues from being used for political purposes without explicit authorization of members, prohibited union and corporate contributions to campaigns and prohibited government contractors from contributing to campaigns. Unions suffered a setback in Michigan, where voters rejected Proposal 12-2, which would have placed a right to collective bargaining in the state constitution. Unions also lost in Alabama, where voters approved Amendment 7, which requires secret ballots in union elections.

Health Care

President Obama’s health care law, the Affordable Care Act, remains a source of controversy in the states. In previous years, four states—Arizona, Missouri, Ohio and Oklahoma—approved propositions declaring that no individual or business shall be compelled to participate in a health care system,

which appears to be a partly symbolic judgment on the merits of Obamacare; while Colorado voters rejected such a proposal. Alabama, Montana and Wyoming voters in 2012 all approved measures declaring a right not to participate in Obamacare, while Florida voters narrowly rejected such a measure.

Abortion

Many initiatives have proposed laws relating to abortion over the years. The most common subjects have involved parental notification or permission for a minor to receive an abortion and public funding for abortions. In 2012, Florida voters rejected Amendment 6, which would have prohibited public funding of abortion, while Montana voters approved LR-120, which requires parental notification at least 48 hours in advance of performing an abortion on a minor.

Civil Rights

Oklahoma voters approved, by a 59-41 margin, State Question 759, which prohibits discrimination or preferable treatment based on race, sex, ethnicity and national origin. The measure undercuts some affirmative action programs in the state. Similar measures seeking a colorblind approach to race have passed in Arizona, California, Michigan, Nebraska and Washington.

Notes

¹This chapter uses *referendums* instead of *referenda* as the plural, following the *Oxford English Dictionary* and common practice.

²For detailed information on initiative adoption and provisions and a discussion of pros and cons about the process, see John G. Matsusaka, *For the Many or the Few: The Initiative, Public Policy, and American Democracy* (University of Chicago Press, 2004) and M. Dane Waters, *Initiative and Referendum Almanac* (Carolina Academic Press, 2003).

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