

2011 Ballot Propositions

By John G. Matsusaka

Voters in nine states approved 21 of 34 ballot propositions in 2011. The number of propositions was down significantly from 183 in 2010, but comparable to previous odd-year elections. Perhaps the highest profile contest was an Ohio referendum on a law limiting collective bargaining by public employees. The fate of tax and borrowing proposals in several states provides a temperature reading on the electorate's fiscal attitude.

Overview

Voters decided 34 ballot propositions in nine states in 2011, approving 62 percent of them, roughly consistent with past patterns. See Table A. The number of propositions was down from 183 in 2010, but comparable to the average of 30 over the last four odd-year elections.

Propositions that qualify for the ballot by citizen petition—initiatives and referendums—usually garner the most attention, and this year was no exception.¹ The highest profile measure was Ohio's Issue 2, a referendum that proposed to repeal an existing law limiting collective bargaining by public employees. Another referendum, Maine's Question 1, proposed to roll back a new law that ended the state's system of same-day voter registration. Voters agreed with petitioners in both cases and repealed the existing laws.

Voters also considered 10 initiatives, new laws proposed by petition, including a proposal to increase taxes in Colorado, proposals to permit more gambling in Maine, and a proposal to abolish state-run liquor stores and allow more competition in liquor distribution in Washington. Voters rejected the Colorado and Maine initiatives, and overall approved only 50 percent of the initiatives. The remaining 21 propositions were placed on the ballot by state legislatures, and voters approved 67 percent of them.

Initiative Trends

Initiatives historically have been the highest profile and highest impact

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

propositions, and the most contentious. 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 perversely 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 since then; Mississippi was the latest adopter in 1992, bringing the number of states that allow initiatives to 24.²

The 10 initiatives in 2011 is the second-highest number of initiatives to appear in an odd year in the 100-plus year history of the process, exceeded only by the 18 initiatives in 2005. It remains to be seen if this signals the start of another burst of initiative activity over the next few years. Figure A shows the number of initiatives by decade, beginning in 1904 when the first initiatives were decided in Oregon.

Initiatives were used extensively in the second, third and fourth decades of the 20th century. Much of that activity arose from tension between the new urban majorities in many states and the rural interests that controlled the legislature. 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.

One interesting landmark of 2011 was Mississippi's approval of Initiative 27, which requires a photo ID to vote, and Initiative 31, which bans the use of eminent domain to transfer property for use by private parties. These are the first initiatives to be approved in Mississippi since the state adopted the process in 1992. Now all 24 states that permit initiatives have approved at least one measure.

Issues

Public employee unions

As the scope of unfunded liabilities in public employee pension funds has

² For detailed information on initiative adoption and provisions and a discussion of views pro and con 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).

become more widely recognized, compensation and the political power of public unions has emerged as a political issue. That was clear in 2009 and 2010 with a drawn-out battle in Wisconsin between the Republican governor and legislature and Democratic groups associated with the unions. The battle included passage of new laws limiting collective bargaining rights; it spilled over to judicial elections and culminated in a series of recall elections.

In terms of ballot propositions, conservative groups have placed a number of propositions on ballots over the last few years trying to curtail the power of unions, with mixed success. For example, in 2010, Arizona, South Carolina and Utah voters approved measures requiring secret ballots for union elections, while in 2008, Colorado and Oregon voters rejected measures that would have prohibited the use of union dues for political purposes without member consent.

Ohio's Issue 2, a referendum placed on the ballot by a union-backed petition drive, gave voters the option to repeal Senate Bill 5, approved by the Republican-controlled legislature in March 2011. Senate Bill 5 limited collective bargaining with public employee unions over topics such as the number of employees overall and on duty, employer contributions to pensions and health care costs; allowed workers to not pay union dues; prohibited strikes by public employees; and required workers to contribute more for their pensions and health care. Supporters of Senate Bill 5 argued that controlling public employee costs was critical for closing the budget deficit and that performance-based pay for teachers would improve education in the state.

Opponents of Senate Bill 5 argued that the law sought to undermine unions and the middle class, and ran ads claiming that Senate Bill 5 endangered public safety by preventing firefighters and other public employees from negotiating for more workers. Labor groups spent a remarkable \$42 million opposing Senate Bill 5, compared to \$12 million spent by its proponents. With more than \$54 million in total spending, the campaign surrounding Issue 2 appears to have been one of the most expensive in state history.

On Election Day, voters re Senate Bill 5 by a decisive 62-28 margin. Such a crushing defeat may give union opponents pause before advancing similar laws in the future.

Bonds and Budgets

Many states require voter authorization for bond issues. Since the onset of the financial

crisis, legislators have been cautious about proposing new bond issues; voters approved only \$2 billion in new bonds in 2010 compared to \$13 billion in 2008 and \$43 billion in 2006. Bucking the trend, the Texas legislature asked voters to approve three bond-related measures in 2011. Proposition 2 proposed to authorize \$6 billion on a rolling basis for water bonds; Proposition 3 proposed to increase higher education bonding authority from \$125 million per year to \$350 million per year; and Proposition 5 proposed to allow counties to issue bonds for redevelopment projects in blighted areas. Proposition 2 passed 52-48 and Proposition 3 passed 55-45, somewhat narrow margins for bond elections, and Proposition 5 failed 40-60. These results suggest that a healthy proportion of Texas voters are averse to additional debt issues. In contrast, Arkansas voters overwhelmingly approved—by a margin of 81-19—renewal of a \$575 million bond program for construction and maintenance of highways.

Budget stabilization—or so-called “rainy day”—funds continue to be a popular subject for ballot propositions. Voters considered six measures concerning such funds during 2009-10, as states sought to insulate themselves from turmoil in financial markets and revenue volatility, and considered two more in 2011. Louisiana voters rejected Amendment 4 that would have made it easier for the state to divert revenue from the budget stabilization fund by a 49-51 margin, while Washington voters by a 66-33 margin approved SJR 8206 that required larger contributions to the fund in years of extraordinary revenue growth.

Abortion

Many initiatives have proposed laws relating to abortion over the years. Perhaps most common have been proposals to require parental notification or consent when a minor seeks an abortion. Proposals to significantly curtail or ban abortion have been much rarer—the Initiative and Referendum Institute Historical Database reveals only five proposals in the past 100 years to entirely ban abortion— in part because it is doubtful that states have the authority to take such an action. A recent strategy by pro-life groups has been to propose a constitutional amendment that defines a “person” as a human being from the point of conception. Colorado voters rejected two such initiatives by huge margins, one in 2008 and one in 2010. In 2011, Mississippi voters rejected another “personhood” amendment, Initiative 26, by a smaller but still decisive margin, 42-58. The prospects for passage of such amendments in the future anywhere in the country appear dim.

Gambling

Gambling is a perennially popular topic for ballot propositions, with 11 gambling-related measures appearing from 2008 to 2010. In 2011, voters considered three gambling measures. Maine voters rejected Question 2, which would have allowed slot machines at horse tracks, and Question 3, which would have allowed a casino in the city of Lewiston. The vote in Maine may not reflect an anti-gambling sentiment so much as a view that the one casino and one racino already authorized for the state are enough. New Jersey voters, in contrast, approved by a 64-36 margin an advisory measure to legalize sports betting if permitted by federal law.

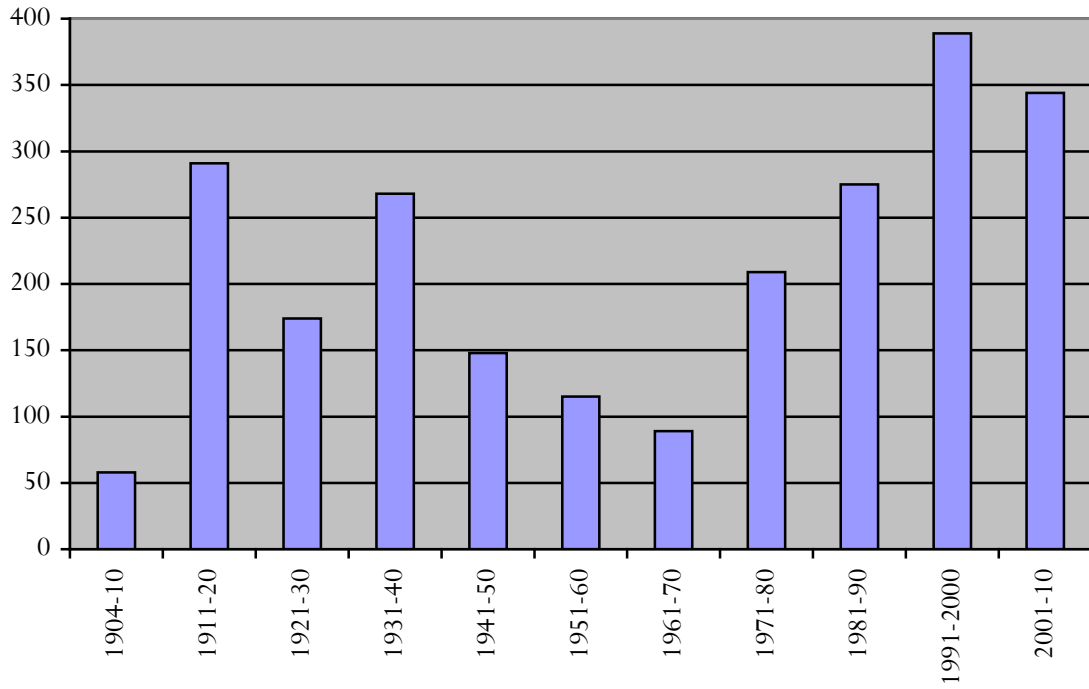
Government liquor stores

Washington voters approved I-1183 by a 59-41 margin, closing down all state-run liquor stores, licensing private parties to sell alcohol if their stores measure at least 10,000 square feet, and allowing retailers to buy directly from distilleries rather than distributors. The campaign for I-1183 was funded by the grocery industry, led by a \$22.5 million contribution from Costco Wholesale. The opposition campaign was financed by wine and liquor distributors who feared that other states might consider repealing their laws prohibiting retailers from purchasing directly from distilleries. The opposition campaign focused on safety implications of the measure. This vote is a surprising about-face by the electorate after it rejected two similar proposals in 2010. One important change is that the previous initiatives would have permitted minimarts and gas stations to sell liquor and would have deregulated beer distribution, neither of which were included in I-1183.

About the author

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Figure A
Number of Initiatives by Decade



Source: Initiative & Referendum Institute.

Table A
STATE-BY-STATE TOTALS FOR 2011

<i>State</i>	<i>Initiatives</i>	<i>Referendums</i>	<i>Legislative measures</i>	<i>Advisory</i>	<i>TOTAL</i>	<i>Notable issues</i>
Arkansas	...	...	1 (1)	...	1 (1)	\$575 billion highway bonds
Colorado (a)	1 (0)	...	...	...	1 (0)	Income and sales tax increase
Louisiana (b)	...	...	6 (4)	...	6 (4)	Tobacco taxes, eminent domain
Maine (c)	2 (0)	1 (1)	1 (0)	...	4 (1)	Same-day registration, gambling
Mississippi	3 (2)	...	...	...	3 (2)	Abortion ban, ban on real estate transfer taxes
New Jersey	...	...	...	1 (1)	1 (1)	Gambling
Ohio (d)	1 (1)	1 (0)	1 (0)	...	3 (1)	Public employee collective bargaining
Texas	...	...	10 (7)	...	10 (7)	Bonding authority
Washington	3 (2)	...	2 (2)	...	5 (4)	State liquor stores, long-term health care
Total	10 (5)	2 (1)	21 (14)	1 (1)	34 (21)	

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

Note : The table reports the total number of propositions during 2011. Except as noted below, all propositions appeared on the ballot on November 8. The main entry is the number of propositions appearing, and the number approved is in parentheses. A referendum in which the original law is **retained** is considered to have been "approved" (Maine reports in the opposite way on its web site).

Notes.

(a) Colorado initiative election was November 1.

(b) Louisiana includes five measures from October 22 (3 approved) and one measure from November 19 (approved).

(c) Voters repealed the existing law in the Maine referendum (a vote "yes" in this state).

(d) Voters repealed the existing law in the Ohio referendum (a vote "no" in this state).

(e) Louisiana includes two legislative measures from October 2, both of which passed.

	Type	Result	Short description
Arkansas			
Question	L/ST	Approved 81-19	\$575 million bonds for highways.
Colorado			
Prop 203 (November 1)	I/ST	Failed 37-62	Increases income and sales taxes for five years.
Louisiana			
Amendment 1 (October 22)	L/CA	Approved 70-30	Makes permanent existing 4-cent/pack tobacco tax.
Amendment 2 (October 22)	L/CA	Approved 59-41	Diverts revenue to state pension funds.
Amendment 3 (October 22)	L/CA	Approved 53-47	Prohibits diversion of money from Patient's Compensation Fund.
Amendment 4 (October 22)	L/CA	Failed 49-51	Removes provision regarding mineral revenue in rainy day fund.
Amendment 5 (October 22)	L/CA	Failed 48-52	Makes explicit an existing implicit tax law exemption for New Orleans.
Amendment 1 (November 19)	L/CA	Approved 81-19	Prohibits new taxes on real estate transfers.
Maine			
Question 1	R/ST	Failed 40-60 ¹	Voters repealed existing law banning same-day voter registration.
Question 2	I/ST	Failed 45-55	Allows slot machines at race tracks.
Question 3	I/ST	Failed 37-63	Authorizes casino in Lewiston.
Question 4	L/ST	Approved 53-47	Changes year of redistricting.
Mississippi			
Initiative 26	I/CA	Failed 42-58	Bans abortion by defining "person" as human from moment of fertilization.
Initiative 27	I/CA	Approved 62-38	Requires photo identification to vote.
Initiative 31	I/CA	Approved 73-27	Bans transfer to private parties of property taken by eminent domain.
New Jersey			
Public Question 1	Advisory	Approved 64-36	Allows sports betting if permitted by federal law.
Ohio			
Issue 1	L/CA	Failed 38-62	Increases from 70 to 75 year maximum age for judge to take office.
Issue 2	R/ST	Failed 38-62 ²	Voters repealed existing law limiting public worker collective bargaining.
Issue 3	I/CA	Approved 66-34	Prohibits government from requiring participation in a health care system.
Texas			
Prop 1	L/CA	Approved 83-17	Property tax exemption for spouse of disabled veteran.
Prop 2	L/CA	Approved 52-48	\$6 billion bonds for Texas Water Development Board.
Prop 3	L/CA	Approved 55-45	Increased higher education bonding authority.
Prop 4	L/CA	Failed 40-60	Authorizes local government development bonds.
Prop 5	L/CA	Approved 58-42	Allows cities to contract with each for services with new taxes.
Prop 6	L/CA	Approved 52-48	Allows greater withdrawals from permanent school fund.
Prop 7	L/CA	Failed 48-52	Authorizes El Paso to create conservation districts.
Prop 8	L/CA	Failed 57-53	Lowers taxes for land devoted to water stewardship.
Prop 9	L/CA	Approved 57-43	Allows governor to grant pardon in certain circumstance.
Prop 10	L/CA	Approved 56-34	Allows office holders to run for office without resigning current office.
Washington			
I-1125	I/ST	Failed 47-53	Requires vehicle fund revenue to be used only for transportation.
I-1163	I/ST	Approved 65-35	Increases regulation of long-term health care workers.
I-1183	I/ST	Approved 59-41	Closes state liquor stores.
SJR 8205	L/CA	Approved 73-27	Deletes inoperative voter registration provision.
SJR 8206	L/CA	Approved 67-33	Increases contribution to rainy day fund when revenue growth is high.

Source: Initiative & Referendum Institute

Notes: Unless another date is given, a proposition appeared on the November 8 ballot. Under results, "Approved 81-19" means the proposition was approved with 81% in favor and 19% against.

- 1) In Maine, a "yes" vote is to repeal the existing law, so the outcome was 60% yes and 40% no.
- 2) In Ohio, a "yes" vote is to retain the law, so the outcome was 38% yes and 62% no.

Key:

CA - Constitutional amendment
I - Initiative
L - Legislative measure
R - Referendum
ST - Statute
Advisory - Advisory measure