

# 2015 Ballot Propositions

By John G. Matsusaka

*Voters decided only 28 state-level ballot propositions in 2015, as direct democracy activity continued to cool in the 21st century. High profile issues included rejection of marijuana legalization in Ohio, selection of the chief justice in Wisconsin, and sales tax changes in Michigan and Washington.*

## Overview

Ballot proposition activity was muted in 2015, at least at the state level. The number of propositions is always lower in odd-numbered than even-numbered years, but 2015's total of 28 state-level propositions was the lowest in the 21st century. Considered together with the 158 propositions in 2014, which was the lowest total for an even-numbered year in the 21st century, the use of direct democracy continues to decline as the new century progresses. The 67 percent passage rate in 2015 was similar to historical rates, meaning that the overall appeal of the propositions on the ballot has not changed.

The 28 propositions in 2015 were distributed across nine states. Texas had the most, with seven, all of which passed. All of Texas' propositions were *legislative measures*, placed on the ballot by the legislature. Legislative measures are by far the most common type of proposition; two-thirds of the propositions in 2015 were legislative measures, exactly the historical average for the 21st century. Five propositions were *citizen initiatives*, new laws placed on the ballot by citizen petition. There were also four advisory propositions in Washington state that were required by the state constitution.

See Table A for a summary of propositions by state and type in 2015, Table B for a year-by-year breakdown of ballot proposition activity since 2000, and Table C for a complete list of propositions decided in 2015.

## Initiative Trends

In most years, initiatives are the most visible and controversial propositions on the ballot, and they attract the lion's share of funding. Initiative proponents view the process as an important supplement to representative democracy that allows citizens to counteract the influence of special interests in the legislature; while opponents view the process as increasing the influence of wealthy and organized interest groups that can fund petition drives

and the election campaigns. The initiative and referendum system emerged in the United States during the Progressive Era; 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 most recent state to adopt the initiative process in 1992, bringing the total number of states that allow initiatives to 24.<sup>1</sup> The initiative process is widely available in states west of the Mississippi River, but it is not a purely Western phenomenon; there are initiative states in the Northeast (Maine and Massachusetts), South (Arkansas and Florida), and Midwest (Michigan and Ohio).

The total count of five initiatives in 2015 was typical for an odd-numbered year. The approval rate of 40 percent was equal to the long-run historical average. Initiative use overall appears to be waning from its peak in the mid-1990s. 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, particularly in the Progressive Era that preceded the Great Depression. Many initiatives during this period were fueled by tensions between the new urban majorities in many states and the rural interests that still controlled state legislatures, because district lines were not regularly redrawn to accommodate population changes. Initiative activity tailed off in the middle decades of the 20th century, with a trough of 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 after Proposition 13 set a new record for the number of initiatives, peaking with 394 from 1991 to 2000. Voters have decided 101 initiatives so far in the current

**Table A: State-by-State Totals for 2015**

State	Initiatives	Legislative measures	Advisory	Total	Issues
Colorado.....	...	1 (1)	...	1 (1)	Use of marijuana tax revenue
Louisiana (a).....	...	4 (2)	...	4 (2)	Transportation projects; state infrastructure bank
Maine.....	1 (1)	2 (2)	...	3 (3)	Public fundings of campaigns; \$100 million in bonds
Michigan (b).....	...	1 (0)	...	1 (0)	Increase sales tax from 6% to 7%
Mississippi.....	1 (0)	1 (0)	...	2 (0)	State support for public schools
Ohio.....	1 (0)	2 (2)	...	3 (1)	Marijuana legalization; bipartisan redistricting
Texas.....	...	7 (7)	...	7 (7)	Property tax exemptions; right to hunt and fish
Washington.....	2 (2)	...	4 (2)	6 (4)	Reduce sales tax from 6.5% to 5.5%; animal trafficking
Wisconsin (c).....	...	1 (1)	...	1 (1)	Selection of chief justice of the supreme court
<b>Total.....</b>	<b>5 (2)</b>	<b>19 (15)</b>	<b>4 (2)</b>	<b>28 (19)</b>	

Source: Initiative & Referendum Institute ([www.iandrinstitute.org](http://www.iandrinstitute.org)).

Note: The table reports the total number of propositions during 2015. Except as noted below, all propositions appeared on the ballot on Nov. 3. The main entry is the number of propositions appearing; the number approved is in parentheses. For advisory measures in Washington, the proposition is classified as “approved” if the recommendation was to maintain the existing law.

Key:

- (a) All Louisiana amendments were on the Oct. 24 ballot.
- (b) The Michigan proposal was decided in a May 5 special election.
- (c) The Wisconsin amendment was on the April 7 special election ballot.

decade, well below the pace in the preceding two decades. Halfway through the decade, initiative use is on target to fall to the level of the 1970s.

In terms of individual states, Oregon is the overall leader, having voted on 367 initiatives since adopting the process in 1902. California is a close second with 357 initiatives since adopting the process in 1911. Rounding out the top five are Colorado with 225, North Dakota with 192 and Washington with 176. Initiative activity is particularly high in the western half of the country. East of the Mississippi River, Arkansas has voted on the most initiatives with 123. In the 21st century, California leads with 88 initiatives, followed by 64 in Oregon, 50 in Colorado and 48 in Washington. Citizen lawmaking has become a central feature of the political process on the West Coast, particularly the Pacific states.

**High Profile Issues**

Despite the modest overall level of activity, individual propositions in several states garnered significant attention in 2015.

**Ohio: Marijuana Legalization**

One of the highest profile issues was Ohio’s Issue 3, an initiative that would have legalized recreational use of marijuana. Public opinion has been shifting rapidly on marijuana—according to survey data from the General Social Survey, for the first time ever a majority of Americans now support legal-

ization—and four states recently decriminalized its recreational use through ballot measures (Alaska, Colorado, Oregon and Washington, as well as the District of Columbia).

Issue 3 went beyond the marijuana initiatives in other states by establishing monopolies across regions of the state for commercial growing of marijuana—and going so far as to identify the specific parcels of land that would have the monopolies. The parcels of land were owned by the initiative’s sponsors. In response to this part of the initiative, the legislature placed Issue 2 on the ballot that would invalidate the granting of monopolies in Issue 3. Proponents of Issue 3 spent \$21.5 million to persuade voters, a huge imbalance compared to the \$2.2 million spent by opponents of the measure, but in the end appear to have overreached, as voters decisively rejected Issue 3 by a margin of 36 percent to 64 percent. Voters approved the legislature’s amendment that would prohibit earmarked monopolies in the future. Proponents have announced their intention to return to the ballot with a better proposal in 2016.

**Mississippi: Education Funding**

Another interesting contest concerned Mississippi’s Initiative Measure 42, a constitutional amendment that would have required the state to provide an “adequate and efficient system of free public schools.” Constitutional provisions that commit a

**Table B: Number of Ballot Propositions by Year Since 2000**

Year	All	Initiatives	Referendums	Legislative	Other
2000	239	76	6	151	6
2001	39	4	0	35	0
2002	224	51	5	164	4
2003	68	7	0	61	0
2004	176	64	3	108	1
2005	45	18	1	26	0
2006	226	79	4	142	1
2007	43	2	2	39	0
2008	168	68	6	90	4
2009	32	5	3	24	0
2010	184	46	4	130	4
2011	34	10	2	22	0
2012	187	48	14	122	3
2013	31	3	0	23	5
2014	158	35	5	111	7
2015	28	5	0	19	4
2000–2015	1,882	521	55	1,267	39

Source: Initiative & Referendum Institute ([www.iandrinstitute.org](http://www.iandrinstitute.org)).  
 Note: “Other” includes propositions placed on the ballot by commissions, constitutions, or statutes.

state to provide support for education are not unusual, although the language in Measure 42 was unusually vague. One of the most controversial features of the initiative was its explicit assignment of enforcement power to the judiciary. In response, the legislature placed a competing measure on the ballot, Alternative Measure 42A, that was the same in all respects except that it assigned enforcement to the legislature.

The election for Measures 42 and 42A also was notable for the convoluted way the choices were presented on the ballot. Standard practice would be to ask voters to register a “yes” or “no” opinion on each measure, with the measure receiving the largest majority of “yes” opinions (if any) being approved. In contrast, Mississippi asked voters first to indicate whether they favored approval of “either” 42 or 42A, or “neither” of them. Then voters were asked to indicate which of the two they preferred, assuming one of the two would go into effect. In any event, neither proposal passed the first hurdle;

by a 48 percent to 52 percent margin voters rejected both measures in the first step of the ballot.

**Washington: Sales Tax**

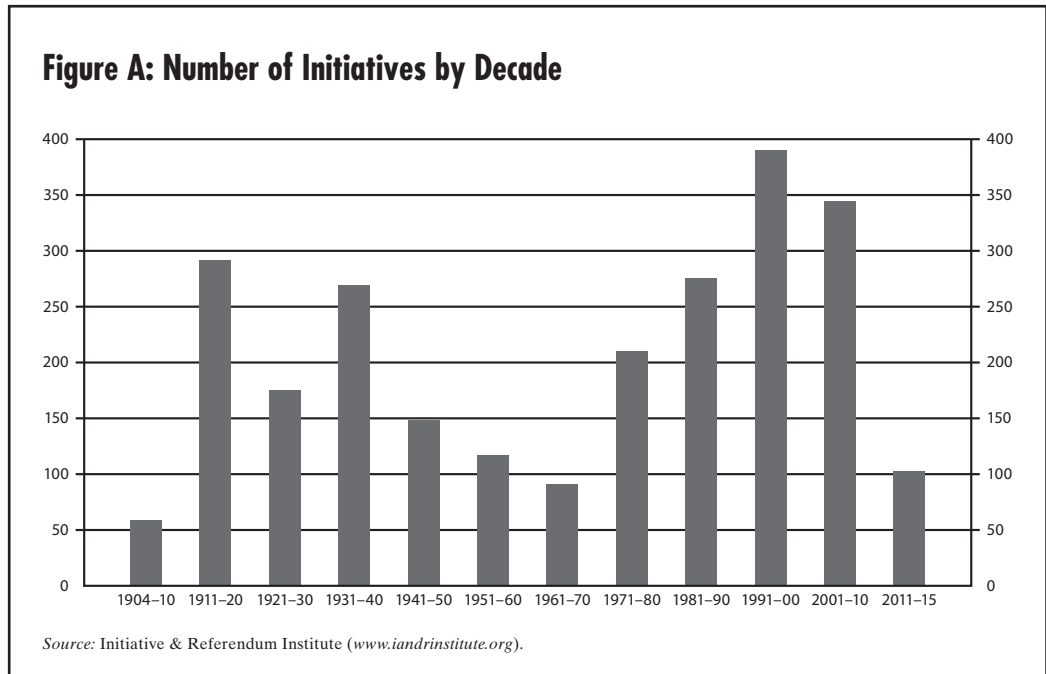
Washington’s I-1366 incorporated an interesting new direction in initiative strategy. In Washington, initiatives may only be used to pass statutes; they are not permitted to amend the constitution. The only way to amend the constitution is for the state legislature to propose an amendment, and for the voters to approve the amendment. Anti-tax advocates in the state have long wanted to restrict the ability of the legislature to raise taxes, but statutory initiatives that cut taxes can and are repealed by the legislature and attempts to change legislative structure are difficult without amending the constitution. Voters previously approved initiatives to require a supermajority vote for tax increases, but the state Supreme Court ruled that such laws were unconstitutional.

Sponsored by initiative activist Tim Eyman, I-1366 proposed a statutory cut in the state sales tax from 6.5 percent to 5.5 percent. However, the cuts would not go into effect if

the legislature was to propose a constitutional amendment requiring a two-thirds legislative vote or approval by the people for future tax increases. Voters narrowly approved the initiative 52 percent to 48 percent. After the election, opponents of the initiative, led by Democratic lawmakers, filed suit in state court to block the initiative on the grounds that it violated the single-subject rule. A court ruling had not been issued at the time of writing.

**Wisconsin: Chief Justice**

In April, Wisconsin voters approved Question 1, a constitutional amendment that changed the method for selecting the state supreme court’s chief justice. The Wisconsin Supreme Court has been a lightning rod for controversy for several years, with some elections for its members attracting significant attention and funding from outside the state. Under existing law, the chief justice position was assigned automatically to the most senior justice, which since 1996 had been Shirley Abrahamson, a



member of the court’s liberal minority. Question 1 allowed the justices to select their own chief justice.

Following the election, the conservative majority selected one of their members, Patience Roggensack, as the new chief justice. The ousted chief justice filed suit against the voters, claiming that her due process and equal protection rights were violated by being removed from her position; the courts rejected her claims.

**Local Issues**

The overall number of local ballot propositions is not tracked by any organization, but greatly exceeds the number of state-level propositions. In 2015, a number of controversial issues came before local voters. Some of the more interesting issues included:

***San Francisco Prop F: Anti-Airbnb***

San Francisco voters rejected a proposal to restrict the use of homes for vacation rentals. The initiative was promoted by housing activists, landlords and the hotel workers union. Airbnb poured in \$8 million against the initiative, vastly more than the \$500,000 spent by proponents.

***Seattle: Campaign Contribution Vouchers***

Seattle voters overwhelmingly approved I-122, a radically new approach to campaign finance. The

initiative created a public financing system in which each city resident will receive four \$25 vouchers that can be given to any local candidate for office. The idea behind the initiative was to reduce the influence of large donors by enabling campaigns to raise large sums of money by collecting vouchers from numerous “ordinary” residents. The funding for the program, expected to be about \$3 million per year, was not specified in the initiative.

***Houston: Gay Rights***

Another measure that attracted national attention was Houston’s referendum on its Equal Rights Ordinance. The original law, approved by the City Council in May 2014, banned discrimination based on gender identity and sexual orientation. Conservative Christian activists challenged the law by collecting signatures to place it on the ballot, labeling it the “bathroom ordinance,” based on the idea that the law would have allowed male sexual predators to enter women’s bathrooms. The ordinance was repealed with more than 60 percent voting in favor of repeal.

***Various: Marijuana Legalization***

The battle for legalization of marijuana was fought at the local level across the country in 2015. In terms of legalization, voters in Toledo, Ohio; East Lansing

**Table C: List of State Propositions, 2015**

<i>State</i>	<i>Type</i>	<i>Result</i>	<i>Short description</i>
<b>Colorado</b>			
Prop BB	L/ST	Approved 69-31	Permits state to spend marijuana tax revenue.
<b>Louisiana</b>			
Amendment 1	L/CA	Failed 47-53	Creates transportation project fund.
Amendment 2	L/CA	Approved 53-47	Creates state infrastructure bank.
Amendment 3	L/CA	Failed 46-54	Legislature can consider revenue bills in certain sessions.
Amendment 4	L/CA	Approved 51-49	Local governments can tax property of other state governments.
<b>Maine</b>			
Question 1	I/ST	Approved 55-45	Public funding of political campaigns.
Question 2	L/ST	Approved 69-31	\$15 million bond issue for senior homes.
Question 3	L/ST	Approved 73-27	\$85 million bond issue for transportation projects.
<b>Michigan</b>			
Proposal 15-1	L/CA	Failed 20-80	Increase sales tax from 6% to 7%.
<b>Mississippi</b>			
Initiative Measure 42	I/CA	Failed (b)	Education funding law, empowers courts to enforce.
Initiative Measure 42 A	L/CA	Failed (b)	Education funding law, empowers legislature to enforce.
<b>Ohio</b>			
Issue 1	L/CA	Approved 71-29	Creates bipartisan redistricting commission.
Issue 2	L/CA	Approved 51-49	Prohibits initiatives that benefit specific individuals.
Issue 3	L/CA	Failed 36-64	Legalizes marijuana, grants production monopolies.
<b>Texas</b>			
Prop 1	L/CA	Approved 86-14	Increases exemption from school property taxes.
Prop 2	L/CA	Approved 91-9	Property tax exemption for spouse of deceased veteran.
Prop 3	L/CA	Approved 66-34	Allows legislators to reside outside state capital.
Prop 4	L/CA	Approved 69-31	Allows professional sports team charitable raffles.
Prop 5	L/CA	Approved 83-17	Authorizes small counties to construct private roads.
Prop 6	L/CA	Approved 81-19	Recognizes right to hunt and fish.
Prop 7	L/CA	Approved 83-17	Dedicates certain sales tax revenue to roads.
<b>Washington</b>			
I-1366	I/ST	Approved 52-48	Decreases sales tax from 6.5% to 5.5%.
I-1401	I/ST	Approved 70-30	Prohibits trafficking in parts of threatened animals.
Advisory Vote 10 (a)	Adv/ST	Maintained 51-49	Maintain or repeal tax on oil products carried by railroads.
Advisory Vote 11 (a)	Adv/ST	Maintained 59-41	Maintain or repeal tax on medical marijuana.
Advisory Vote 12 (a)	Adv/ST	Repealed 36-64	Maintain or repeal tax on gas.
Advisory Vote 13 (a)	Adv/ST	Repealed 37-63	Maintain or repeal business tax.
<b>Wisconsin</b>			
Question 1	L/CA	Approved 53-47	Allow supreme court justices to select chief justice.

*Source:* Initiative & Referendum Institute, Jan. 2016.  
*Note:* An advisory vote is classified as “maintained” if the majority recommendation is to maintain the existing law.

*Key:*

I – initiative  
L – legislative measure  
CA – constitutional amendment  
ST – statute  
Adv – advisory

(a) Washington requires advisory votes on legislative tax increases.  
(b) Mississippi determined the fate of the two propositions based on two questions: the vote was 48-52 for approval of “either” 42 or 42A, and 41-59 for 42 versus 42A.

and Portage, Mich.; and Wichita, Kan., voted to decriminalize marijuana or substantially reduce penalties, while voters in Montrose, Mich., rejected legalization. In Alaska, voters in Palmer voted to ban

marijuana while voters in Houston rejected a ban. Proposals to allow marijuana distribution facilities in the city limits were rejected by voters in Brownsville, Ore., and Riverside and Yucca Valley, Calif.

## BALLOT PROPOSITIONS

### *Ohio Counties: Fracking*

Three Ohio counties were set to vote on whether to amend their charters to ban hydraulic fracturing, or *fracking*, in their limits, but the state's secretary of state disallowed the votes. The Ohio Supreme Court has ruled that local governments do not have the authority to ban drilling that has been approved by the state legislature.

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### Notes

<sup>1</sup>For 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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