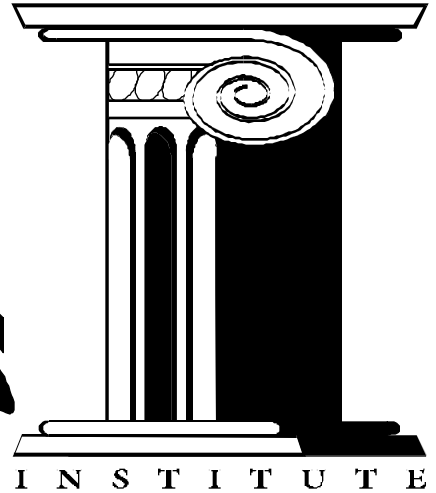


LIMITS



On Power and the Use of Power

Initiative and Referendum in the States

by Amy K. Frantz

According to the Initiative & Referendum Institute, a total of 72 citizen-initiated measures may qualify for the November ballot in various states.

ALASKA

Citizens of Alaska for a Strong Economy (CASE), led by the mayor of Nome, Alaska, has filed a lawsuit to strike a property-tax-cap statutory initiative from the November ballot. The suit alleges that the initiative does not comply with the state's single-subject rule for ballot questions, and violates several other state laws and provisions of the State Constitution, including equal protection rights and provisions protecting home rule.

CALIFORNIA

Among the five initiatives approved for the November ballot is a Constitutional

Amendment to establish school vouchers. Proposition 38 provides families a \$4,000 voucher per student, regardless of family income, to send their children to private schools. Each side of the voucher debate will likely spend at least \$20 million during the initiative campaign.

Proposition 39 amends the Constitution to allow voters to approve local school bonds by a 55 percent vote rather than the current two-thirds vote. See page 7 of *LIMITS* for an article on this initiative — *Standoff in California: Taxes or Schools?* by Bill Whalen of Stanford University's Hoover Institution.

COLORADO

Initiative 205 has qualified for Colorado's November ballot to amend the Taxpayer Bill of Rights (also known as TABOR or Amendment 1)

approved by state voters in 1992. If approved by the voters, I-205 will add a new provision to the Colorado Constitution mandating a reduction in certain taxes — including the utility customer tax, vehicle sales and use taxes, state income tax, and property tax — by an additional \$25 cut each year. In other words, these taxes would be cut \$25 the first year, \$50 the second year, \$75 the third year, etc., until the tax is eliminated. The first \$25 reduction in taxes would take effect in the 2001 tax year.

MAINE

Legislators in Maine responded to pressure placed on them through the Initiative process to repeal the state's tax on snack foods. Supporters of an initiative to repeal the snack food tax collected enough signatures to qualify for the

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November ballot. Legislators were certain it would pass, so they enacted a repeal of the tax during their legislative session earlier this year, to take credit for passing it before voters did.

MICHIGAN

Voters in Michigan will consider an initiative to amend the State Constitution to allow school voucher programs. The initiative language guarantees per-pupil funding in public schools, requires teachers to be tested in academic subjects, and allows local school districts to approve programs providing school vouchers in certain cases.

OREGON

Eighteen initiatives have been approved for the November ballot as of the writing of this article. The initiatives Oregon voters will consider include Measure 91, an initiative to amend the Oregon Constitution to make all federal income taxes deductible from income on state income tax returns. The deduction is currently limited to \$3,000. This Amendment would take effect in the 2000 tax year.

Measure 93 amends the State Constitution to require voter approval for new state and local taxes or fees and any increase in taxes above inflation. Requests to implement or increase a tax must pass by the

same margin that Measure 93 passes by, if approved by voters in November.

Measure 95 is a Constitutional Amendment tying job performance to teacher pay and job security.

Measure 96 amends the Constitution to require that changes in the initiative process that increase its expense or difficulty must be made by initiative.

A Constitutional Amendment to limit state appropriations for state expenditures to 15 percent of Oregon citizens' personal income in the prior two calendar years has qualified for the ballot as Measure 88.

WASHINGTON

Several initiatives are awaiting ballot qualification from the Secretary of State's Office. Measure 729 is a statutory initiative to authorize school districts and public universities to sponsor charter public schools. Measure 722 is a statutory initiative to nullify tax and fee increases adopted without voter approval between July 2, 1999 and December 31, 1999, exempt vehicles from property taxes, and places limits on property tax increases.

The December 2000 issue of *LIMITS* will include the election results from initiatives around the country.

Amy K. Frantz is a Research Analyst with Public Interest Institute.

It's My Money — And I Want It Back!

by Amy K. Frantz

President Clinton vetoes tax cut after tax cut, because we can't return the surplus to the "rich" people it came from; we have to spend it on new government programs. Vice President and presidential candidate Al Gore calls tax cuts "risky schemes."

Apparently anyone above the poverty level is considered rich by the current Administration. So as one of the so-called "rich" people in this country (won't my mom be proud!) I have just one thing to say — it's my money (or at least it used to be) and I want it back!

It seems pretty simple to me, although maybe that's because I only worked for the government for five years, then got out before I started to believe that reducing the amount of an increase in spending was a cut or learned just what the meaning of "is" is. If indeed we do have a surplus, which is also in doubt, it is because the government somehow managed not to spend all of the tax money it had collected (no small miracle). In other words, the government charged more in taxes than it needed for its budget.

If government were in the real world — if this overcharge were on your restaurant bill, not your IRS bill — you would demand the money back. You wouldn't say, oh well, that's too bad, why not let the restaurant use my extra money however it

sees fit, maybe the waiters would like a cost of living adjustment (COLA) wage increase this year. No. You would ask for your money back. So why aren't we more insistent that our members of Congress and the President give our money back? Maybe it's because after so many years of paying the IRS, typically even before we see any of our paycheck, it just seems routine. Maybe we all like being considered "rich." Maybe we really have begun to believe President Clinton's (and others') view that the government knows better than we do how to spend our money.

There is a quirky new show on the USA cable network called *Manhattan, AZ*. At the end of each episode, the actor playing the main character speaks to the audience, explaining that this episode may have been resolved in a not-so-typical manner, but "we work in television. We know better than you." This reminds me of

many of the people working in our government today. We can't give the surplus back to those regular folks who go about their daily lives paying bills on time, running small businesses, working to take care of their families. They wouldn't do the right thing if we gave them some of their tax money back. We should keep it and decide which new government programs to spend it on. We work in government. We know better than you.

But do they? They are the ones that created the \$5 trillion national debt. They are the ones that spend \$600 for a hammer for the Department of Defense. And they know better than I do how to spend my money? I don't think so. We have to let our elected officials know — It's our money, and we want it back!

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Who's Afraid of the Big Bad Initiative?

by Bill Whalen of Hoover Institution

This November, citizens in California and 23 other states will vote on dozens of ballot initiatives. Although ballot initiatives are often maligned in the press and the academy alike, Bill Whalen stands up for them, arguing that they allow voters to speak out on issues about which elected officials will only whisper.

As a newcomer to America's "left" coast several years back, my education in politics west of the Rockies began with an invitation to a strategy session at then-governor Pete Wilson's reelection campaign. Sitting in a Sacramento conference room, I listened to a pollster detail how various issues were playing around the state. Illegal immigration resonated strongly with voters, I was told, as did crime and the economy.

I smugly interrupted the presentation to ask how health care reform was playing in California. This was early 1994, mind you, and we Washingtonians were convinced that health care reform — namely, Hillary Rodham Clinton's ill-fated takeover of one-seventh of the U.S. economy — was the mother of all campaign issues. The pollster deadpanned: "I'm glad you asked. It's at 4 percent. Just where it was the last time." The moral of the story: perception is one thing, reality quite another; now be quiet and you might learn something

about California.

I recalled that episode after reading *Democracy Derailed: Initiative Campaigns and the Power of Money*, David Broder's look at the supposedly debilitating effect of ballot initiatives on the political process. Broder is, of course, the Pulitzer Prize-winning reporter and columnist for the *Washington Post* and an elder statesman of political journalism. But in his book he makes the same error I did back in 1994, which is to view America's West through a nonwestern mind-set.

Popular Democracy — for Better or Worse

Ballot initiatives are popular not because voters want to punish the political process but because the process already has punished them. The effect of initiatives on the political process is hardly debilitating. In the California experience in particular, ballot initiatives have served to force some important and necessary public debates that otherwise would have been shelved by feckless lawmakers.

I'll explain why in further detail, but first, a little history.

The modern ballot initiative, or proposition, dates back to the closing days of the nineteenth century and our nation's manifest destiny to the open space beyond the Missis-

sippi River. Americans migrating west entered a political vacuum in which they could design their state political systems from scratch. What resulted was a race for the political upper hand — a race that initially went to the power brokers of the day: captains of railroads (such as Leland Stanford), agriculture, and mining. This obviously did not sit well with a voting population that was populist by nature — many of whom made the western trek expecting to escape the political machinery of the North and South. Thus the ballot initiative emerged as the people's alternative to circumventing the special interests that dominated state capitals.

The first statewide ballot initiatives were voted on by Oregonians in 1899. Two decades later, 20 states allowed either initiatives (which are placed on the ballot by collecting a requisite number of voters' signatures) or referenda (which are placed on the ballot by a legislative vote). At present, only 24 states allow their residents to put propositions on the ballot.

Not every initiative that appears on a state ballot is a slam dunk. According to the Initiative & Referendum Institute, the passage rate for initiatives over the past century is only 40 percent.

That's hardly the stuff of

which legends are made, yet this has not stopped Broder and the punditry elite from putting the initiative process in their crosshairs. “The growing reliance on initiatives in the half of the country where they are available,” Broder writes, “is part of the increasing alienation of Americans from the system of representative government that has served this nation for over two hundred years.”

“Part of the increasing alienation”? Yes, initiative-laden ballots make reading voters’ guides a confusing and tedious enterprise. But there are far bigger culprits in the gulf between voters and office-holders: candidates running soulless campaigns, controlled by even more soulless political consultants, compounded by a political press corps more interested in titillation than sober journalism.

This is not to suggest that the initiative process is without fault. Three shortcomings come to mind:

1. *Distortion.* As with campaigns for individual candidates, initiative campaigns far too often boil down to last-minute saturation advertising — ads meant to deliberately obfuscate an issue, sometimes for purely selfish reasons. Take the campaign two years ago by Univision, the country’s leading Spanish-language broadcaster, to sink California’s Proposition 227 (which sought to end bilingual education). One can only

assume that Univision executives concluded that a larger bilingual population would translate to fewer viewers of its strictly Spanish-language programming.

2. *Incoherent or nonsensical measures.* The wording of ballot measures is frequently convoluted and sometimes nearly unintelligible. In 1996, for instance, the readability level of referenda in Massachusetts and Rhode Island was estimated at the fifteenth-grade (third year of college) level. And sometimes they push the bounds of what merits public debate, as when Alaskans considered a statewide vote on the personal consumption of fish and game.

3. *Monkey business.* Just ask Timothy Draper, a Silicon Valley venture capitalist and sponsor of a school choice initiative he hopes to place on the California fall ballot. Because California law requires that initiative titles and text be approved by the state attorney general before they are voted on, Draper’s conservative measure had to pass muster with California’s attorney general: the very liberal Bill Lockyer, a longtime ally of the California Teachers Association (CTA). The CTA opposes school choice, as do liberals like Lockyer, who view it as undermining inner-city schools by taking away their students (thus eroding schools’ per capita funding). Thus it is no surprise that the attorney general retitled Draper’s initiative to “School

Vouchers — State-Funded Private and Religious Education.” The change is perfectly legal, but it reeks of politics because the word voucher is poisonous to California voters. Moreover, the phrase “state-funded private and religious education” raises the same conflict — separation of church and state — that prompted a federal court to temporarily shut down Cleveland’s school choice program.

The “Media Filter”

But is all of this cause for consternation? The answer, it seems, is that the beauty of ballot initiatives is in the eye of the beholder. If the cause is deemed worthy by the media, then it receives easy treatment. But those initiatives that offend liberal sensibilities are destined for rough treatment by a predominantly liberal fourth estate.

Consider that of the approximately 2,000 initiatives voted on in the past century, it is three approved by California voters in the past quarter century that have drawn the lion’s share of media scrutiny and wrath: Proposition 209 (which repealed affirmative action, 1996), Proposition 187 (which addressed illegal immigration, 1994), and Proposition 13 (which lowered property tax rates, 1978). All three measures were approved by near-landslide majorities, yet all three were condemned by the

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mainstream media as either damaging to government's ability to provide basic services or as socially divisive.

It seems that ballot initiatives go through two filters — one for the media and one for voters. The voters' filter is simple, even commonsense, and surprisingly balanced. For example, in different election cycles Californians have passed term limits yet rejected a "none of the above" ballot option. They have approved of medicinal usage of marijuana yet rejected various HMO reforms. They have passed a 50-cent-a-pack tax on cigarettes in the name of child development yet rejected a measure that would have made it easier to do even more for children by lowering the threshold for approving local school bonds (see article on opposite page).

What's the common thread here? Simple. Voters measure the worth of initiatives, then look at their own circumstances. Then they look at the political establishment's ability to handle the matter if voters don't take matters into their own hands.

It's that latter point — the inability of the political establishment to assume responsibility — that is underestimated with regard to initiatives. States suffer from the same gridlock we see in Washington, D.C. — California being arguably the best example. Why did California voters

reinstate the death penalty by ballot? Because a liberal legislature would not. The same goes for illegal immigration and the repeal of affirmative action — two issues that resonated with voters but not liberal lawmakers, who would not touch either matter because each conflicted with their ideological beliefs (and base of support).

Unfortunately, the initiative process does not sit well with the media. When an initiative passes that reporters do not care for, one of two assumptions is made — that voters were duped or are just plain stupid. That's been the standard explanation for Propositions 187 and 209 — the public was tricked into choosing something they didn't want. How insulting to a majority of Californians.

My suggestion is that rather than bashing the process, journalists should take a closer look at initiatives as a truer reflection of public sentiment than any legislative action — or inaction — in Washington, D.C., and the state capitals. That begins with the issue of taxes, which the media so far have scoffed at in this election.

Tax Relief for the Masses

It is now an accepted part of American political folklore that the tax-cutting Proposition 13, approved in 1978, set the stage for Ronald Reagan's ascent to the presidency two years later. But a closer look at the numbers shows that while Reagan

was indeed swept into office on a platform of lower taxes and fiscal restraint, the issue of tax cuts did not play when presented in initiative form. In 1980, the first of the two Reagan national landslides, only 13 of the 30 anti-tax initiatives on state ballots were approved.

One would assume that anti-tax initiatives would fare even worse today, when education and underperforming schools grab the headlines. However, it's just the opposite. From 1996 through earlier this year, 8 of 12 anti-tax measures passed, including Washington state's landmark I-695 (which slashed the state's automobile tax to a flat \$30 and requires voters to approve any new tax or fee proposed by the legislature).

For Republicans in general and presidential nominee George W. Bush in particular, this is encouraging news as the general election gets under way. There are 65 anti-tax measures already on state ballots, with another 15 in the works. If Bush, who has based his candidacy in great part on across-the-board tax relief, can tap into this anti-tax sentiment, he may find the tailwind he needs to coast to victory.

The media may not like it, but the voters will have spoken. Come to think of it, isn't that how this is supposed to work?

Bill Whalen is a research fellow at Hoover Institution.

Standoff in California: Taxes or Schools?

by Bill Whalen

One of the beauties of ballot initiatives is that they often compel voters to make simple, yes-or-no decisions: Do I support lower taxes? Should lawmakers be subject to term limits? Should state law require parental notification for abortion? But what happens when voters have to choose between two concepts, both of which happen to be popular?

That's the question facing California voters this November when they decide whether to subject local school bonds to a lower passage threshold of 55 percent (instead of the existing two-thirds supermajority). The choice boils down to better schools versus the threat of higher property taxes, and California voters seem to be of two minds.

Proponents of the measure — a spin-off of California's Proposition 26, which aimed to lower the bond threshold to a mere 50 percent plus one and was defeated by just 180,000 out of 7 million votes cast last March — contend that the lower threshold is necessary to build the new schools and facilities needed to improve California's public education system.

Opponents of the measure contend that it could boomerang against Californians. Unlike state general obligation bonds, which are supported by California's general fund (into which all taxpayers pay), school bonds are local general obligation bonds, which could require a community to raise local property taxes to pay off its debt load. Opponents also note that in California since 1996, roughly 66 percent of all local school bonds have received the requisite two-thirds supermajority. Three-fourths of school districts that attempted a bond had it approved on its first or second try.

To make things even more interesting, this will be the initial, all-hands-on-deck foray into the world of initiatives by California's new center of political gravity. Supporters of the school bond measure include Governor Gray Davis, the California Teachers Association, and a coalition of high-tech executives. So deep are this powerful coalition's pockets that it was able to collect more than one million signatures in less than a month's time to qualify the initiative for the November ballot. With its huge war chest, the coalition may be able to outspend opponents on the order of 20 to 1.

To date, education reform in California has been relatively pain-free for taxpayers. A booming economy has prompted a flood of new state revenue, giving lawmakers plenty of discretionary funds to direct toward California's public schools. Because the state's Proposition 98 guarantees public schools at least 40 percent of the annual state budget, the result has been record spending on education.

But California voters have yet to demonstrate whether they are willing to accept a tax increase — or the threat of higher taxes — to make schools better. The only indication so far has been Proposition 26, the failure of which would indicate that education is not as strong an issue at the polls as it is in public surveys.

Perhaps it is a case of "won't be fooled again." A dozen years ago, Proposition 98, also supported by the CTA, was put before voters with a similar promise as Proposition 26: invest in education, give us the resources, and we'll restore accountability to the classroom and restore California's public schools to their former glory.

A proposition on the November ballot will reveal whether education is as strong an issue at the polls as it is in public opinion surveys.

In the first general election of the twenty-first century, California voters may see public schools on the mend, but the CTA has failed to live up to its Prop. 98 promise of results and accountability. Schools still fare poorly in terms of academic achievement. Moreover, the CTA has gone from an organization interested in better schools to a union with a rigid agenda. While the CTA supports

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**Standoff in California:
Taxes or Schools?**

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better schools via measures such as Proposition 26, two years previously it fought tooth and nail against Governor Wilson's Proposition 8, which among other things called for greater accountability through the creation of an office to monitor school performance.

Will Californians this time lower the bond threshold? Odds are that the power and deep pockets of the proponents will win this time around. But they may not find it easy to convince Californians to surrender their fiscally conservative instincts.

Bill Whalen is a research fellow at Hoover Institution.

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