

BALLOTWATCH

Highlights

- Election November 8.
- Eight propositions on ballot, 5 sponsored by or linked to Schwarzenegger.
- Issues
 - Abortion
 - Apportionment
 - Drug prices
 - Electricity regulation
 - State spending limits
 - Teacher tenure
 - Union dues
- Previous special elections in 1949, 1950, 1970, 1973, 1979, 1993, 2003.

CALIFORNIA SPECIAL ELECTION: SCHWARZENEGGER ROLLS THE DICE

Republican Gov. Arnold Schwarzenegger yesterday announced a special election for November 8, gambling that voters will be more receptive to his reform agenda than the Democratic-controlled legislature has been so far.

Heading the list of 8 propositions on the ballot is a measure to take districting out of the hands of legislators and give it to a panel of retired judges, and a measure to cap the growth of state spending.

Since he took office, Schwarzenegger has threatened to take his reform agenda to the voters if the legislature wouldn't cut a deal.

"We're about to find if Schwarzenegger can govern without the legislature," commented IRI president John Matsusaka.

The backdrop to the election is a fierce battle between the governor and the big public sector unions that has raged all year. Seven of the eight potential measures are likely to become battlegrounds in that war.

Special election voters have not always been kind to the sitting governor. Ronald Reagan, another Republican incumbent with a background in the motion picture industry, called a special election in 1973, also to gain approval for an initiative that would have limited taxes and spending. His proposition was re-



jected 48-52 in an election where only 32% of eligible voters turned out.

THE GOVERNOR'S AGENDA

Schwarzenegger is sponsoring three measures as part of his reform agenda. Citizens to Save California has raised \$8.2 million, including \$1.3 million from Gov. Schwarzenegger's California Recovery Team, for the campaign. The group reports \$2 million cash on hand

Prop. 77. Reapportionment (SA04RF0037)

This initiative, the foundation of the governor's reform agenda, amends the state constitution to take redistricting out of the hands of the state legislature and give it to

a three-member panel of retired judges and then the voters. The judges — called Special Masters — would propose district lines for Assembly, State Senate, U.S. Congressional representatives, and Board of Equalization districts. The proposal would then have to be approved by the voters.

New district lines would be drawn immediately for 2006 if the initiative passes, and then again after each decennial census.

Only retired judges who have never held partisan office would be eligible to serve as a Special Master. The panel would be chosen by lot from a pool selected by the Assembly Speaker, Assembly minority leader, Senate President, and Senate minority leader. Each legislative leader would nominate three judges

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for the pool, none from the leader's own political party. The final panel must contain at least one Democrat and one Republican.

The Special Masters must unanimously agree on their proposal before it goes to the voters. District boundaries would have to be contiguous, and to the extent practicable compact and not split counties and cities. The Special Masters would be prohibited from taking into account the residency of incumbents.

Proponents contend that Californians would be better served if legislators did not have the power to draw their own district lines because there is an obvious conflict of interest. Legislators often create districts to protect incumbents of both parties, leading to a lack of competitive districts, and ideologically extreme candidates. Incumbents in safe districts may not be responsive to public opinion. The opposition to the measure is not yet organized.

Three previous ballot propositions to take districting out of the hands of the legislature (1982, 1984, 1990) were rejected by the voters. See IRI Report 2005-1, "Redistricting: Another California Revolution?"

The measure is backed by recall proponent Ted Costa and the California for Fair Redistricting campaign is being run by Los Angeles businessman Bill Mundell, who has already contributed \$250,000. "Voters should choose their leaders not the other way around," says Mundell.

A February Field Poll found the electorate in support of the plan 49-39. A Public Policy Institute of California (PPIC) survey in May found 41-40 in support.



Prop. 76. Education and state spending limits
(SA05RF0067)

This initiative amends the constitution to make three important changes to the state budget process. First, it limits state spending to the prior year's budget plus the average General and Special Fund revenue growth over the previous three years. Second, it gives the governor unilateral power to cut appropriations if the budget is delayed or falls into deficit after it has been passed. Third, it weakens current requirements that lock in minimum spending levels for education.

Current law allows the governor to call a special session of the legislature if actual revenues fall "substantially" below what was anticipated when the budget bill was passed. The initiative adds that if the legislature does not rectify the budget shortfall within 45 days of the start of the special session, the governor is required and empowered to cut appropriations. He may cut spending in any way he chooses. The initiative also provides that if the budget is not passed on time, spending levels are automatically set at the previous year.

Prop. 98 (1988) set minimum spending requirements for education. One requirement is that legislators in any given year appropriate at least as much for education as they did in the previous year. The initiative going before the voters changes the law so that if spending exceeds the Prop. 98 requirements in a given year, it can be cut back to the previous level in a later year. The Prop. 98 requirements are by far the largest constraint on state budgeting. See "Have Voter Initiatives Paralyzed the California Budget?," at

www.iandrinstitute.org.

Schwarzenegger has been running TV commercials for this one. A May PPIC survey found opinion running 43-37 in support of the initiative. But there were some danger signs for the governor. While voters strongly favor the spending limits, they disapproved of giving the governor power to cut spending without legislative approval and relaxing the minimum spending requirements for education. The teacher unions have already been running television ads asking voters if they trust Schwarzenegger with the power to make unilateral cuts. On July 11, the governing body of the California Teachers Association approved a \$60 per person dues increase, expected to raise \$50 million to fight the governor.

A Field Poll in February found 51-42 in support.

Prop. 74. Teacher tenure
(SA05RF0019)

Public school teachers in California currently receive a form of tenure after two consecutive years of employment. Tenure means the teacher cannot be fired except under extraordinary circumstances. This initiative statute increases to five years the amount of time before tenure. It also allows school boards to dismiss a teacher who receives an "unsatisfactory" performance evaluation for two consecutive years.

Some initiatives that were originally circulated by Schwarzenegger allies have been abandoned. One measure would have changed public employee pension plans to 401(k)-style accounts. This proposal generate ferocious opposition by public sector unions who feared it would cut their benefits. The measure was poorly written because it might have abolished benefits for the relatives of those killed on the job. Another abandoned measure would have created a merit pay system for public school teachers.

SURROGATE BATTLES

Four measures are sponsored by Schwarzenegger allies, or are targeted at the governor by his opponents. He has not taken official positions on these measures yet.

Prop. 75. Union dues not for political purposes
(SA05RF0009)

This "paycheck protection" initiative prohibits public employee union dues from being used for political purposes without the written consent of union members. Public sector unions have spent heavily against the governor in the past year. This is one way to reduce their impact.

This statutory measure is a repeat of Prop. 226 in 1998 that failed, 47-53 percent. That measure was championed by GOP Gov. Pete Wilson, but opponents outspent supporters \$6 million to \$24 million.

The current initiative differs from Prop. 226 in several respects. For one thing, it applies only to public employee unions not all unions. Also, opponents of Prop. 226 raised fears that it might apply to payroll deductions for charitable contributions or health insurance. The new initiative explicitly exempts such contributions. Finally, the new initiative does

not require the employer to collect employee signatures every year for deductions — an onerous administrative burden that kept many businesses on the sidelines during the Prop. 226 campaign — but places the burden the union.

The current initiative is receiving support from pharmaceutical companies in retaliation for union support of the prescription drug initiative (see next). It is opposed by teacher and public employee unions. Their Alliance for a Better California has raised \$3.4 million so far to fight this measure and for campaigns on the prescription drug and electricity measures, with \$1.4 million cash on hand.

Prop. 79. Prescription drug discounts (Health Access California)

(SA05RF0037)

This initiative establishes a program in which the state would offset part of the cost of prescription drugs low-income citizens. The program would be funded with rebates paid by pharmaceutical companies that would be negotiated by the companies and the California Dept of Health Services. Drug companies that refused to provide drugs at a rate equal to or lower than the Medicaid best price would be denied a Medi-Cal contract. The measure also makes “profiteering” illegal, defined as charging an “unconscionable” price or a price that leads to an “unjust or unreasonable” profit.

The discount program would be offered to Californian residents with incomes than four times the federal poverty threshold. Currently, that would mean a family of four with income below \$77,936 would be eligible, or an individual with an income of \$37,240.

If successful, the measure almost certainly would be challenged in court. A U.S. Supreme Court ruling in 2003 was unclear about whether a state could use its Medicaid program to punish drug companies.

This measure is sponsored by Health Access California, a Bay Area advocacy group. The campaign is being funded by education and public employee unions aligned with Democratic lawmakers. Schwarzenegger vetoed a similar measure last year. Pharmaceutical companies have promised to do “whatever it takes” to defeat this measure.

Prop. 78. Prescription drug discounts (Schwarzenegger)

(SA05RF0065)

This initiative would establish a program overseen by the state that allows low and moderate income residents to purchase prescription drugs at a discounted price. The discounts would be based on negotiations between the state and pharmaceutical firms. Participation by firms would be voluntary with no sanction for nonparticipants. The initiative is essentially implements a plan Schwarzenegger and the industry agreed to last year.

The program would be offered to California residents with a family income no more than three times the poverty rate, meaning about \$58,452 currently for a family of four and \$27,930 for an individual..

This initiative is sponsored by drug companies and is the industry response to the Health Alliance California measure. The industry-sponsored campaign committee has raised \$10

million so, including \$3.9 million from the world’s largest drug company GlaxoSmithKline, with \$6.5 million cash on hand.

Prop. 80. Electric Utility Regulation

(SA05RF0053)

This initiative regulates the price of electricity, substantially undoing the partial deregulation of the 1990s. It also requires utilities to generate 20% of power from renewable energy sources by 2010. A similar measure to require use of renewable energy source as approved by Colorado voters in 2004. Schwarzenegger vetoed legislation similar to this measure last year.

(Petitions submitted but not yet qualified.)

THE WILD CARD

Completely unrelated to the governor’s reform agenda and battle with the unions, right to life activists qualified an abortion measure for the ballot. This measure is a wild card; much like the marriage amendments in the 2004 presidential elections, abortion may bring single issue voters to the polls whose positions on the other initiatives are hard to predict.

Prop. 73. Parental notification of abortion

(SA04RF0030)

This initiative amends the California Constitution to require parental notification (but not approval) before a minor (younger than age 18) receives an abortion. It also imposes a 48 hour waiting period after the parents have been notified. Parental notification.

In 1997, the California Supreme Court struck down a state law that required parental consent for a minor to have an abortion on the grounds that it violated the right to privacy in the state Constitution. By amending the state Constitution, this measure would not be subject to challenge for violating the state constitution (but it could be challenged in federal courts).

Currently, 26 states have waiting period laws, 20 require parental consent, and 13 require parental notification. Eighteen states have no parental notification or consent requirement, either because such laws were never adopted (CT, HI, NY, WA, OR, VT, WA) or because courts have invalidated existing laws (AK, CA, FL, IA, IL, MT, NV, NH, NJ, NM, OK).

The petition campaign was bankrolled by San Diego activist James Holman who has contributed \$700,000 of Life on the Ballot’s \$900,00 funds. Schwarzenegger has expressed support for the “general idea” of parental notification, but has not take a position on this initiative.

HISTORY OF SPECIAL ELECTIONS

The California Constitution gives the governor the power to call a special election when an initiative has qualified for the ballot. California has held eight special elections since the end of World War II including the 2003 recall election. A brief summary.

1949. The key issue was reinstatement of a welfare program for the elderly and blind. There were 12 measures on the ballot.



CALIFORNIA SPECIAL ELECTION

1950. The special election was held concurrent with the primary elections. There were 3 measures on the ballot. Turnout was 68% of registered voters.

1952. Held concurrent with the general election. It was called to add a bond measure to the 23 other measures on the ballot.

1970. Held concurrent with the primary election. There were 7 measures on the ballot.

1973. Ronald Reagan called this special election to gain approval for his tax and spending limit initiative. It failed 48-52. Turnout was 48% of registered voters and 32% of eligible voters.

1979. The centerpiece of this election, held at the crest of the tax revolt, was the Gann spending limits initiative that passed 74-26. There were three other measures on the ballot. Turnout was 38% of registered voters and 25% of eligible voters.

1993. There were 7 measures on the ballot. GOP gov. Pete Wilson called the special election to gain approval of Prop. 172 that increased the sales tax by half a cent. The measure passed, 58-42. Perhaps the most prominent measure on the ballot would have instituted a system of school vouchers. Wilson opposed it, and failed 30-70. Turnout was 36% of registered voters and 28% of eligible voters.

2003. This election was dominated by the recall campaign that ousted Gray Davis. There were 2 measures on the ballot. Turnout was unusually high, 61% of registered voters and 43% of eligible voters.

Other IRI reports and updates are available on the IRI web site: www.iandrinstitute.org. Contact Gilien Silsby, IRI Director of Public Relations, USC School of Law, Los Angeles CA 90089-0071, (213) 740-9690, cell (213) 500-8673, email gsilsby@usc.edu.

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PropositionsRecent Polls			
Proposition Number	Subject	Poll	Date
73	Abortion, parental notification
74	Teacher tenure	Field Poll 61-32	June 22
75	Union dues
76	Education & state spending limits	Field Poll 35-42 (PPIC 43-37, Field Poll 51-42)	June 22 (May, February)
77	Reapportionment	Field Poll 35-46 (PPIC 41-40, Field Poll 49-39)	June 22 (May, February)
78	Prescription drugs (Schwarzenegger)
79	Prescription drugs (Health Access)
80	Electric utility regulation