

BALLOTWATCH

Notable

- 26 ballot propositions in 6 states in November, including 5 initiatives and 3 referendums.
- Most: Texas 11, Maine 7
- 2009 totals: 32 propositions in 7 states, including 5 initiatives and 3 referendums.
- Headline issues: gay rights, tax and expenditure limits
- 367 initiatives for the decade 2000-2009, short of the record 379 for 1990-1999, but still second-busiest decade ever

IRI

Initiative & Referendum Institute

University of Southern California
Gould School of Law
Los Angeles CA 90089-0071
Phone: 213.740.9690

John G. Matsusaka
President
matsusak@usc.edu

www.iandrinstitute.org

USC UNIVERSITY OF
SOUTHERN CALIFORNIA

ELECTION 2009 PREVIEW: A QUIET YEAR

Only 26 propositions are on state ballots in November, far below the 153 in November 2008, but typical for off-year elections. By way of comparison, there were 34 measures in November 2007, 39 in November 2005, and 22 in November 2003.

Despite the limited number of measures, there are some high-profile contests. Voters in Maine and Washington will decide whether to repeal laws recently passed by their state legislatures that expand gay rights, and voters in those states will have the option to approve citizen-proposed tax limitation measures. Ohio voters will decide whether to allow casinos in four major cities.



Gay rights

A referendum in Maine is the latest skirmish in the battle over same-sex marriage. Gay marriage has been a hot issue since February 2004 when the supreme court of Massachusetts found a right to same-sex marriage in the state constitution, setting off a backlash across the country, with citizen groups and legislatures rushing to place constitutional amendments on the ballot to head off a similar ruling by courts in their states. So far the battle has been a rout, with 32 of 33 propositions banning gay marriage passing, including California's high-profile Proposition 8 in 2008. (See Ballotwatch Report BW 2008-2, "Same-Sex Marriage: Breaking the Firewall in California?," available at www.ballotwatch.org.)

Gay marriage proponents have fared better in state legislatures. Six states, mostly in New England, have enacted laws that permit same-sex marriage: Connecticut, Maine, Massachusetts, New Hampshire, Vermont (and it was legalized in Iowa by a court ruling). Maine's Question 1 asks voters to repeal that state's marriage equality law, passed in May. Proponents submitted 100,000 signatures to qualify the referendum for the ballot. By mid-October, gay marriage supporters claimed to have raised \$2.7 million, compared to \$1.1 million raised by opponents. Early opinion polls have been mixed on the measure's prospects.

In Washington, Referendum R-71 asks voters if they want to uphold a state law that grants same-sex domestic partners essentially the same rights as married spouses. By mid-October, groups seeking to repeal the domestic partnership law had raised about \$60,000, while supporters of the law had raised about \$1 million. A variety of polls have shown a majority in favor of R-71 (that is, in favor of upholding the existing law), although in some surveys it is a narrow majority.

As a side battle in the campaign, referendum supporters are fighting in court to protect the confidentiality of the names of people who signed the petitions to force a vote. They argue that those who signed might be exposed to harassment, giving as example the experience of some contributors to California's Proposition 8 campaign. Opponents argue that the names should be released as part of the state's public records disclosure laws.

STATE-BY-STATE LIST

Tax limits

Tax limits have been a mainstay of ballot propositions throughout the century-long history of citizen law-making. Initiatives in Maine and Washington will give voters the option to limit state spending and require voter approval of future tax increases.

Maine's Question 4, dubbed TABOR II, is a descendent of Colorado's prominent Taxpayer Bill of Rights measure approved in 1992. Question 4 would restrict the growth of government spending to the rate of inflation plus the growth rate of population (the state's current spending limit is linked to income growth, which typically allows a faster growth of spending). Revenue collected in excess of the limit would go into a rainy day fund (20 percent) and returned to citizens in the form of tax relief (80 percent). Maine voters rejected a similar measure in 2006 with 54 percent against.

Washington's I-1033 is also a TABOR-type measure. It limits the growth of state and local government spending to the rate of inflation plus population growth, and requires voter approval for tax increases. Revenue collected in excess of the limit would be returned in the form of property tax relief. By late October, proponents had raised about \$400,000 and spent over \$600,000, while opponents had raised over \$2.5 million. A SurveyUSA poll in early October found a 13 percent margin in favor of the initiative.

The election returns in the Maine and Washington will provide a temperature reading of the public's attitudes toward government spending in the wake of a serious recession and a huge expansion in federal spending.

*Gay rights: referendums
ask voters to repeal
same-sex marriage
(Maine) and domestic
partnership benefits for
same-sex couples
(Washington).*

STATE-BY-STATE LIST

The remainder of this report contains a list of ballot propositions that have qualified to appear on state ballots. An "initiative" is a citizen-sponsored law that is placed on the ballot by petition. A "referendum" is a proposal, placed on the ballot by petition, to repeal an existing law.

Maine

Questions 1 and 3 are referendums; 2, 4, and 5 are initiatives, and 6 and 7 were placed on the ballot by the legislature. All are statutory except for Question 7, a constitutional amendment.

- *Question 1. Same-sex marriage.* Referendum asking voters to repeal a new law permitting same-sex marriage.
- *Question 2. Car tax.* Cuts taxes on newer and alternative energy cars
- *Question 3. School district consolidation.* Referendum asking voters to repeal a 2007 school district consolidation law.
- *Question 4. Tax and expenditure limits.* Limits state and local spending, requires voter approval for exceptions and tax increases.
- *Question 5. Medical marijuana.* Expands medical use of marijuana, and allows state-licensed dispensaries.
- *Question 6. \$71.25 million bond issue for transportation projects*
- *Question 7. Initiative and referendum.* Allows officials more time to certify petitions.

New Jersey

- *Public Question. \$400 million bond issue to acquire land for parks and conservation (legislative).*

STATE-BY-STATE LIST

New York

Both propositions are constitutional amendments proposed by the legislature.

- *Proposal 1. State forest preserve.* Allows sale of state forest land for power lines.
- *Proposal 2. Inmates.* Allows inmates to work for nonprofit organizations.

Ohio

Issues 1 and 2 were placed on the ballot by the legislature. Issue 3 is an initiative. All three measures propose to amend the constitution.

- *Issue 1. \$200 million bond issue to pay stipends to veterans.*
- *Issue 2. Livestock Care Standards Board.* To create board to regulate treatment of farm animals. Opposed by animal rights groups.
- *Issue 3. Casinos.* Authorizes casinos in Cleveland, Columbus, Cincinnati, and Toledo.

Texas

All 11 measures are constitutional amendments placed on ballot by legislature.

- *Prop 1. Land near military bases.* Allows tax-financed acquisition of open space near bases by local governments.
- *Prop 2. Property tax.* Property tax on residence to be based only on value as residence.
- *Prop 3. Uniform standards for property tax appraisals.*
- *Prop 4. University research.* Establishes fund to support research at state universities.
- *Prop 5. Board of Equalization.* Authorizes single board for adjoining appraisal entities.
- *Prop 6. Veterans Land Board bonds.* Allows state to issue replacement bonds without voter approval.
- *Prop 7. Office holding by military.* Allows state militia to hold civil offices.
- *Prop 8. Veterans Hospitals.* Allows state to contribute to veterans hospitals.
- *Prop 9. Guarantees public access to certain beaches on Gulf of Mexico.*
- *Prop 10. Emergency service districts.* Extends terms of board members from 2 to 4 years.
- *Prop 11. Eminent domain.* Prohibits use of eminent domain to transfer land to private entities, promote economic development, or increase tax revenue.

Washington

- *I-1033. Revenue limits.* Initiative statute that limits government spending growth to inflation plus population growth, with excess revenue used to reduce property taxes.
- *R-71. Domestic partners.* Citizen referendum that asks voters if they want to uphold a law granting same-sex domestic partners the same rights as married spouses.

*Spending limits:
initiatives in Maine and
Washington give voters
the opportunity to limit
the growth of
government spending.*

PREVIOUS PROPOSITIONS

The following propositions were decided by voters in elections held earlier this year.

California (May 19)

All six measures were placed on the ballot by the legislature as part of a budget agreement. 1A, 1B, and 1F were constitutional amendments, 1D and 1E were statutes, and 1C was an amendment and statute.

- *Prop 1A. Rainy day fund.* Complicated and difficult-to-interpret proposition that, among other things, increased the state's rainy day fund and imposed modest limits on spending. If the measure had been approved, certain emergency taxes would have been extended for several years. FAILED 35-65
- *Prop 1B. Education.* Required supplemental spending on education after the budget crisis passed. FAILED 38-62
- *Prop 1C. Lottery revenue.* Allowed state to borrow against future lottery revenue. FAILED 36-64
- *Prop 1D. Tobacco tax revenue.* Allowed state to divert tobacco tax revenue dedicated to early childhood development programs. FAILED 34-66
- *Prop 1E. Mental health revenue.* Allowed state to divert revenue dedicated to mental health services. FAILED 34-66
- *Prop 1F. Gaming compact.* Prohibited increase in legislature salaries if state has a deficit. APPROVED 72-26

* * *

Please direct media inquiries to Gilien Silsby, Director of Public Relations, (213) 740-9690 (office), (213) 500-8693 (cell), gsilsby@law.usc.edu.

IRI

Initiative & Referendum Institute

University of Southern California
Gould School of Law
Los Angeles CA 90089-0071

www.iandrinstitute.org

USC UNIVERSITY OF
SOUTHERN CALIFORNIA