

BALLOTWATCH

Notable

- 34 ballot propositions in 9 states for the year; 22 approved; 12 rejected.
- Of 10 initiatives: 5 approved, 5 rejected. Of 21 legislative measures: 14 approved, 7 rejected. Of 2 referendums, in both cases the existing law was repealed. One advisory measure was approved.
- Busiest states: Texas approved 7 of 10, Louisiana approved 4 of 6, Washington approved 4 of 5.

ELECTION RESULTS 2011

Ballot proposition activity was light in 2011, as usual for an odd-numbered year. Voters decided 34 ballot propositions, approving 22 of them. In perhaps the highest profile race, Ohio voters repealed a new law that would have limited collective bargaining by public employees and required government workers to contribute more to their health care and retirement plans.



Overview

Voters decided a total of 34 ballot propositions in nine states in 2011. The number of propositions was down from 183 in 2010, but comparable to the average of 30 over the last four odd-year elections. Voters approved 62 percent of the propositions, roughly consistent with past patterns. The 10 initiatives in 2011 is the second-highest number of odd-year initiatives in the 100+ year history of the process, exceeded only 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. For additional information about ballot propositions, see www.iandrinstitute.org, www.ncsl.org, and www.ballotpedia.org.

Issues

- **Public employee unions.** With growing recognition of the scope of unfunded liabilities in public employee pension funds, compensation and the political power of public unions has become a contested political issue, most prominently in the state of Wisconsin last year. Ohio's Issue 2, a referendum that was placed on the ballot by a 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 and employer contributions to pensions; allowed workers not to 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 a budget deficit and that performance-based pay for teachers would improve education in the state. Opponents 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 an enormous \$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 Ohio history. On Election Day voters rejected Senate Bill 5 by a decisive 62-28

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HEADLINE ISSUES

margin. This crushing defeat may force union opponents to reassess their strategy going forward.

- **Bonds.** Many states require voter authorization for bond issues. Since the onset of the financial crisis legislators have been cautious about proposing new bond issues, with aggregate state bond authorization falling from \$43 billion in 2006 to \$2 billion in 2010. Bucking the trend, the Texas legislature asked voters to approve three bond-related measures in 2011. Proposition 2 authorized \$6 billion on a rolling basis for water bonds; Proposition 3 increased higher education bonding authority from \$125 million per year to \$350 million year; and Proposition 5 permitted 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 many Texas voters are hesitant about new borrowing. In contrast, Arkansas voters overwhelmingly approved (81-19) renewal of a \$575 million bond program for construction and maintenance of highways.
- **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 from 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 vote was a surprising about-face by the electorate after it rejected two similar initiatives in 2010. One important difference 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.

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State-by-State List of Propositions

The following is a complete list of state-level ballot propositions decided in 2011. Unless noted otherwise, the propositions appeared on November 8 ballots. An “initiative” is a new law placed on the ballot by citizen petition. A “referendum” is a proposal to repeal an existing law, placed on the ballot by petition. A “legislative” measure is placed on the ballot by the legislature.

Arkansas

- *Question. \$575 million bonds for highways.* Legislative measure that renewed/extended a program initially approved in 1999. APPROVED 81-19

Colorado (November 1)

- *Prop 103. Tax increase.* Increased income tax (from 4.63% to 5.0%) and sales tax (from 2.9%to 3.0%) for 5 years, with revenue dedicated to education. FAILED 37-63

Terminology

Initiative: new law proposed by petition

Referendum (sometimes “popular referendum”): proposal to repeal existing law, placed on ballot by petition

Legislative measure: new law proposed by legislature

STATE-BY-STATE LIST

Louisiana (October 22)

All five propositions were constitutional amendments from the legislature.

- *Amendment 1. Tobacco tax.* Made permanent an existing “temporary” 4 cents/pack increase in tobacco taxes with revenue dedicated to education. APPROVED 70-30
- *Amendment 2. State pensions.* Diverted 5% of nonrecurring revenue to state pension funds in FY 2013-2014 and FY 2014-2015. APPROVED 59-41
- *Amendment 3. Malpractice fund.* Prohibited diversion to state of money in Patient’s Compensation Fund that is used for medical malpractice insurance. APPROVED 53-47
- *Amendment 4. Rainy day fund.* Removed requirement that mineral revenue diverted from budget stabilization rainy day fund be repaid in same year it is withdrawn. FAILED 49-51
- *Amendment 5. Minimum bids in New Orleans.* Explicitly protected New Orleans’ exemption from minimum bid requirement in property tax sales (currently implicit). FAILED 48-52

Louisiana (November 19)

- *Amendment 1. Property tax.* Legislative amendment prohibiting new taxes on real estate sales. APPROVED 81-19

Maine

Question 1 was a petition referendum, Questions 2 and 3 were initiative statutes, and Question 4 was a legislative constitutional amendment.

- *Question 1. Election-day registration.* Asked voters to repeal (“yes” vote) or sustain (“no” vote) a new law banning Election Day registration. REPEALED 60-40
- *Question 2. Slot machines.* Allowed slot machines at race tracks, with a portion of revenue going to state. FAILED 45-55
- *Question 3. Casino.* Authorized a casino in Lewiston with a portion of profits going to state. FAILED 37-63
- *Question 4. Redistricting.* Changed redistricting to years ending in 1 from years ending in 3 (for example, 2021 instead of 2023). APPROVED 53-47

Mississippi

All three propositions were initiative constitutional amendments.

- *Initiative 26. Abortion ban.* Defined a “person” to be a human being from the moment of fertilization. FAILED 42-58
- *Initiative 27. Required photo ID to vote.* APPROVED 62-38
- *Initiative 31. Eminent domain.* Prohibited property taken by eminent domain to be transferred to a private party (anti-Kelo measure). APPROVED 73-27

New Jersey

- *Public Question 1. Allowed sports betting if permitted by federal law (advisory measure placed on ballot by legislature).* APPROVED 64-36

Ohio

Issues 1 was a constitutional amendment placed on ballot by legislature. Issue 2 was a petition referendum to repeal an existing law. Issue 3 was an initiative constitutional amendment.

- *Issue 1. Increased the maximum age for judge to take office from 70 to 75.* FAILED 38-62
- *Issue 2. Collective bargaining.* Asked voters to approve (“yes” vote) or repeal (“no” vote) a new law passed by legislature that limited collective bargaining by public employees and required greater contributions for pensions and health care. REPEALED 38-62
- *Issue 3. Health care.* Prohibited government from requiring individuals or businesses to participate in a health care system. APPROVED 66-34

*High-profile issues:
public employees in
Ohio, taxes in
Colorado, liquor stores
in Washington*

STATE-BY-STATE LIST

Texas

All 10 measures were constitutional amendments placed on ballot by legislature.

- *Prop 1. Property tax exemption for surviving spouse of disable veteran.* APPROVED 83-17
- *Prop 2. Water bonds.* Authorized \$6 billion rolling debt for water projects. APPROVED 52-48
- *Prop 3. Education bonds.* Increased higher education bond authority from \$125 million to \$350 million per year. APPROVED 55-45
- *Prop 4. Redevelopment bonds.* Authorized counties to issue redevelopment bonds for blighted areas. FAILED 40-60
- *Prop 5. Local government.* Reduced restrictions on intergovernmental contracts by removing requirement of new property taxes to pay for contracted services. APPROVED 58-42
- *Prop 6. Permanent school fund.* Increased allowable withdrawals. APPROVED 52-48
- *Prop 7. Allowed El Paso County to create a conservation district with taxing authority.* Currently 10 other counties have this authority. FAILED 48-52
- *Prop 8. Open space.* Reduced property tax on open space devoted to water. FAILED 47-53
- *Prop 9. Pardons.* Authorized Governor to pardon persons who complete a term of deferred adjudication community supervision. APPROVED 57-43
- *Prop 10. Resign-to-run.* Required officials to resign to run for office if they declare more than one year and 30 days before term ends (versus existing one year). APPROVED 56-34

Washington

I-1125, I-1163, and I-1183 were initiative statutes. SJR 8205 and SJR 8206 were constitutional amendments placed on the ballot by the legislature.

- *I-1025. Motor vehicle fund.* Required motor vehicle fund revenue to be used only for transportation purposes. FAILED 47-53
- *I-1163. Long-term care workers.* Increased oversight and training required for long-term care workers. APPROVED 65-35
- *I-1184. State liquor stores.* Closed state liquor stores, allowed private sales of liquor, changed distribution system for wine. APPROVED 59-41
- *SJR 8205. Voter registration.* Deleted inoperative provision requiring registration far in advance of elections. APPROVED 73-27
- *SJR 8206. Rainy day fund.* Required state to increase contribution to budget stabilization fund in years of extraordinary revenue growth. APPROVED 67-33

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For updates and other reports, see www.iandrinstitute.org. Please direct media inquiries to Gilien Silsby, Director of Public Relations, (213) 740-9690 (office), (213) 500-8693 (cell), gsilsby@law.usc.edu.

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