Have Voter Initiatives Paralyzed the California Budget?

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Abstract. Many observers blame the California budget crisis on a series of voter initiatives that unrealistically appropriated spending while prohibiting tax increases. However, a review of all initiative measures approved by the voters since 1912 shows that no more than 32 percent of appropriations in the 2003-04 budget were locked in by initiatives. Virtually all of the earmarked spending was for education, and would have been appropriated by the legislature even without an initiative mandate. Initiatives placed only minimal constraints on the legislature's ability to raise revenue. The facts suggest that voter initiatives are not a significant obstacle to balancing the budget in California.

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IN EARLY 2003 California faced a projected budget deficit in the vicinity of $30 billion for the oncoming fiscal year. The staggering size of the shortfall fueled the recall campaign that removed the incumbent Democratic governor from office, and installed a fiscally conservative Republican in his place. However, there is substantial disagreement about what actually caused the budget crisis. Recall proponents blamed the governor for "gross mismanagement of the California finances by overspending taxpayers' money."[1] But others placed the blame on the voters, asserting that a series of popular initiatives locking in spending and preventing tax increases has paralyzed the budget process, making it impossible for the governor and legislature to make rational decisions (see Table 1).

The argument that direct democracy has brought California to the edge of fiscal calamity became almost a mantra among pundits leading up the election. If true, the California example would raise some troubling questions about the initiative and referendum, two increasingly popular institutions of direct democracy. Yet the assertions that initiatives have paralyzed the budget seem to be based on an impressionistic view of the measures approved by the voters; I am not aware of any systematic study of the extent to which the budget process is constrained by voter initiatives.

The purpose of this paper is provide, I believe for the first time, a systematic accounting of the constraints placed on the California budget by the initiative process. I review all 98 initiatives that the voters have approved since the initiative process was approved in 1912 and "add up" the constraints that have been placed on appropriations and revenues. It turns out that there are some serious constraints, but fewer than is often claimed. At most 32 percent of the 2003-04 state spending was locked in by initiatives,

[1] Page 5 of *Official Voter Information Guide for the California Statewide Special Election, Tuesday, October 7, 2003*, published by the California Secretary of State, Sacramento, California.

and almost all of that money would have been spent for its dedicated purpose even without a constitutional requirement. On the revenue side, initiatives have not placed any significant constraints on the three most important revenue sources for state governments: income taxes, sales taxes, and corporate taxes. It is hard to see a factual basis for the claim that the deficit was caused by voter initiatives, or that direct democracy has paralyzed the state budget.

1. Initiatives in California

The initiative is a process by which ordinary citizens can propose laws and constitutional amendments by collecting a predetermined number of signatures from fellow citizens. If the required number of signatures is collected, the proposal is placed on the ballot and becomes law if it receives a majority vote. Initiatives are different from referendums placed on the ballot by the legislature—I will not be focusing on legislative measures in this paper.

The initiative process is common in the United States. Twenty-four of 50 states and about half of all cities provide for the process. All told, about 70 percent of the population lives in either a state of city where the initiative is available, making it the norm for American democracy.[2] The initiative process is also quite old. It was first adopted by South Dakota in 1898, making it more venerable than universal women's suffrage, the federal income tax, and social security.

California's initiative process is fairly similar to that of other states. Statutory measures can qualify for the ballot if petitioners collect signatures equal to 5 percent of the vote cast at the last gubernatorial election (currently about 373,816 signatures), and constitutional amendments qualify with 8 percent of the vote cast (currently 598,105 signatures.) Since all signatures must be collected within a 150 day period, initiative sponsors typically employ paid signature collectors. Contrary to conventional wisdom, paid signature collectors are not a modern invention; they were being used in Oregon

[2] This and other background information throughout the paper is taken from John G. Matsusaka, *For the Many or the Few: How the Initiative Process Changes American Government*, University of Chicago Press, forthcoming, 2004.

before 1910. Measures are supposed to pertain to a single subject, but California courts have interpreted this provision liberally. One important feature of the initiative process in California that is not shared by other states is that a measure approved by the voters—whether statutory or constitutional amendment—cannot be modified by the legislature. It can only be changed by the voters themselves. As a result, successful initiatives are binding on the legislature and governor.

A grand total of 288 initiatives have been voted on in California through 2003, of which 34 percent have passed. Of the successful measures, just over 50 percent had direct implications for either spending or taxes. Perhaps the best known of these measures is Proposition 13, approved by the voters in 1978, that capped property taxes at 1 percent of assessed value, and prohibited assessment increases in excess of the rate of inflation.[3]

2. Constraints on Spending

"Constraints" can take many forms. Expenditure can be locked in ("spend at least $1 million on education") or capped ("spend no more than $1 million on education.") Constraints can be fixed ("spend at least $1 million on education") or conditional ("spend at least 1 percent of the budget on education"; "spend at least $1 million on education except during a recession year," etc.) Constraints can be absolute ("spend $1 million no matter what") or flexible ("spend $1 million on education unless the legislature decides otherwise by a 3/5 vote.") To focus the analysis, I will concentrate on constraints that make it difficult to balance the budget, that is, appropriations that cannot be reduced and revenue sources that cannot be tapped or increased. Moreover, I will be looking only at constraints imposed by voter initiatives. The budget is constrained by other factors, such as federal and state constitutions and federal mandates; I will discuss these other constraints after describing the constraints imposed by voter initiatives.

Another conceptual issue is related to the fact that constraints vary over time. For example, the spending guarantees of Prop. 98 in 1988 depend on how much was spent on

[3] The numbers in this paragraph are based on data in M. Dane Waters, *The Initiative and Referendum Almanac*, Carolina Academic Press, 2003, updated with information from the California Secretary of State web page.

education in the previous year, and the costs of a bond issue depend on how much debt is currently outstanding. To make things concrete, I focus on a particular fiscal year 2003-04. That is, I ask what constraints were in effect during the budget process for 2003-04.

Consider first appropriations (revenue is studied in the next section). To find the constraints on appropriations imposed by voter initiatives, I read through the ballot descriptions and arguments for and against each initiative approved by the voters since the process became available in 1912. This led to an initial list of initiatives with potential fiscal impact (a spending impact of at least $1 million.) I eliminated from the list any measures that had expired (such as a bond issue from early in the 20th century that had been paid off long ago), had been repealed or superseded by another measure, had been struck down by a court, or was otherwise ineffective for 2003-04. This left a list of initiatives with fiscal impact that are currently in effect.[4] I then calculated how much money was locked in by each initiative by reading through the precise statutory and constitutional provisions of the measures, and consulting the current budget situation where relevant. When faced with uncertainty about the amounts, I took the largest reasonable number. For example, the lock-in attributed to Prop. 21 in 2000 (juvenile crime) was the official estimate from the Legislative Analyst in 2000 (adjusted for inflation). However, courts have weakened the initiative and the actual costs are turning out to be much lower than anticipated. Because I report the largest plausible amounts, the final numbers are probably overestimates of the true constraints.

Table 2 lists the 15 initiatives that locked in state spending for the 2003-04 fiscal year, as well as the amount committed by each initiative. The details of how each number was calculated are given in the appendix. The most important initiative by far is Prop. 98 from 1988 that locked in $30 billion for K-14 education.[5] After this, the next most costly measure was Prop. 10 from 1998 that committed $522 million to early childhood development. The impact of Prop. 99 in 1988 (tobacco) was comparable.

All told, initiatives locked in $32.132 billion for the 2003-04 fiscal year. As noted above, this number probably overestimates the amount of money locked in. To put the

[4] It is possible that my search missed an initiative or two, but I am confident that no measure with any significant fiscal impact was omitted.
[5] The initiative locked in $45.7 billion total spending for K-14 education. A projected $15.7 billion was anticipated from local property taxes, leaving the state responsible for the remaining $30 billion.

$32 billion figure in perspective, total state appropriations for the fiscal year were $101 billion. So voter initiatives locked in about 32 percent of the budget. Clearly, the claim that 70 percent of the budget has been earmarked in advance by initiatives is far off the mark. Whether 32 percent is a big or small number is open for debate. To me, the number is surprisingly small. It implies that fully 68 percent of the budget is unconstrained by initiatives, more than enough room to close a budget deficit with spending cuts alone. Moreover, most of the $30 billion committed to education by Prop. 98 would have been appropriated even without the initiative. Any amount more than a few billion below this number would leave education with a lower share of the state budget than in any of the 20 years preceding the passage of Prop. 98.

Table 2 challenges the paralysis view in another way. While some commentators paint a picture of the budget collapsing under the weight of a flurry of initiatives, we can see that the problem (if it is a problem) is almost entirely the result of a single initiative, Prop. 98. Without Prop. 98, only 2 percent of the budget is locked in by initiatives, a small number in anyone's book. It seems overly broad to issue a blanket condemnation of the initiative process based on essentially a single questionable outcome, especially since every political process (including the legislative) is inherently imperfect, and liable to make mistakes from time to time.

3. Constraints on Revenue

A deficit can be closed by cutting spending or by raising revenue (or some combination of the two). We have seen that with the exception of Prop. 98, voter initiatives place few constraints on the legislature's ability to cut spending. Consider now the limits on raising revenue that arise from voter initiatives.

Table 2 lists the main revenue sources for state governments and the constraints placed on them by voter initiatives. To put things in perspective, the taxes are listed in order of importance for state governments nationwide (taxes comprise about 77 percent of general revenue from own sources, with the rest coming mostly from charges for services and user fees). That is, nationwide, the most important revenue source for state governments is the personal income tax, the second most important is the general sales tax, and so on.

As can be seen, initiatives impose no barriers to raising the personal income tax (other than a requirement that rates be indexed) and only a modest constraint on raising the sales tax (it cannot be applied to food), by far the two most important revenue sources for state governments. The five most important revenue sources are essentially unconstrained by voter initiatives. The sixth most important revenue source, alcohol and tobacco taxes, has been constrained from below by voter initiatives—tobacco taxes cannot be lowered below 75 cents a pack. Prop. 37 in 1984 mandates a state lottery, creating a revenue source.

There are two major obstacles to tax increases. Prop. 13 in 1978 set the maximum property tax rate at 1 percent of assessed value, and limited assessment increases. Prop. 6 in 1982 essentially eliminated death and gift taxes. However, these taxes are relatively unimportant source of revenue for state governments.

The message of Table 3 is even clearer than Table 2: voter initiatives do not stand in the way of revenue increases.

4. Discussion

Tables 2 and 3 list every voter initiative in California that either earmarks state spending or restricts tax increases. At most 32 percent of budget is locked in by initiatives, and most of that is for education and would be appropriated even without an initiative requiring it. Except for two taxes that are relatively unimportant for state governments, on property and inheritance, initiatives place no material constraints on the raising of revenue. Initiatives do remove some of the legislature's discretion, but as a whole they do not stand in the way of closing a budget deficit with either spending cuts or tax increases.[6]

[6] It is probably worth noting that even the written constraints may not be binding. Even apparently clear initiative provisions can be evaded by elected officials. For example, the governor and legislature for many years diverted revenue from the Cigarette and Tobacco Products Surtax Fund that Prop. 99 in 1988 had dedicated to anti-smoking education, and spent it on health care. See Elisabeth R. Gerber, Arthur Lupia,

The conclusion that voter initiatives have not caused the California budget crisis squares with other research on the effect of direct democracy nationwide. In another study, I compared the fiscal policies of states with and without the voter initiative over a 30 year period. Initiative states spent and taxed less than noninitiative states all else equal, and there was no difference in net borrowing by initiative and noninitiative states.[7] Similarly, D. Roderick Kiewiet and Kristin Szakaly found that mandatory referendums on debt issues have fairly modest effects on the amount of debt outstanding.[8]

Lest these results be misinterpreted, let me emphasize that the evidence here only pertains to constraints arising from voter initiatives. It is possible that the California budget crisis was caused by *noninitiative* constraints. State spending is restricted by the U.S. Constitution (for example, prison spending can only be cut so much before prison conditions will run afoul of the Constitutional prohibition against cruel and unusual punishment) and the California Constitution (for example, the California Supreme Court has placed limits on the state's ability to refuse to pay for abortions for MediCal recipients). There are also federal mandates, and obligations created by previous actions of the legislature. I have not attempted to quantify these constraints, but my sense based on a casual investigation is that they are not particularly severe.

There are also constraints arising from propositions placed on the ballot by the legislature, often called legislative measures or referred measures. Most states require legislatures to receive voter approval for certain actions, such as constitutional amendments or bond issues. To get a sense of the magnitude of the constraints imposed by legislative measures, I reviewed all of them that have passed since 1990 and identified the ones with a fiscal impact. Easily the most important are measures that authorize a bond issue for a specific purpose. Bond issues commit the state to appropriate funds to service the debt. As of July 2003, the total general obligation debt was $27.6 billion. The estimated debt service for 2003-04 was $2.6 billion (see Appendix). If we subtract the $181 million of this that arises from initiative bonds, we end up with an earmarked sum

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Mathew D. McCubbins, and D. Roderick Kiewiet, *Stealing the Initiative: How State Government Responds to Direct Democracy*, Prentice Hall, 2001.

[7] John G. Matsusaka, "Fiscal Effects of the Voter Initiative: Evidence from the Last 30 Years," *Journal of Political Economy*, June 1995, Vol. 103, 587-623. See also Matsusaka, *For the Many or the Few*, cited above.

[8] D. Roderick Kiewiet and Kristin Szakaly, "Constitutional Limitations on Borrowing: An Analysis on State Bonded Indebtedness," *American Journal of Political Science*, April 1996, Vol. 12, 62-97.

of about $2.4 billion for debt service of legislative bond issues. This is not a small amount, but it does not change the basic picture of the overall size of the constraints facing the governor and legislature. Other than bond issues, there were no legislative measures that committed sizable funds or inhibited revenue increases.

In short, the evidence suggests that the California budget has not been paralyzed by voter initiatives. It seems the initiative process is a scapegoat for the inability of elected officials to manage the competing demands for public funds in a period of declining revenues.

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Appendix

This appendix describes how the numbers in Table 2 were calculated. References to the "Legislative Analyst's estimates" refer to the estimates provided in the *California Ballot Pamphlet*, published by the California Secretary of State (Sacramento, CA) prior to each election. "Angelides" refers to *California at the Fiscal Crossroads: Cutting Our Debt and Building Our Future*, Phil Angelides, California State Treasurer, Sacramento, CA, November 2003.

Prop. 9 (1974)
The measure required an appropriation of not less than $1 million (adjusted for inflation) for the California Fair Political Practices Commission. The number in Table 2 is $1 million adjusted for inflation since 1975 using the consumer price index. The Commission is typically funded well in excess of the minimum requirement.

Prop. 86 (1986)
The number is the Legislative Analyst's estimated enforcement cost, adjusted for inflation since 1986.

Prop. 70 (1988)
Authorized $776 million in bonds to purchase and maintain wildlife, coastal, and park lands. Outstanding general obligation debt July 1, 2003 was $27.607 billion. Estimated debt service for 2003-04 was $2.616 billion (Angelides). The ratio of debt service to debt was thus 0.1 overall. I assumed the debt service was equal to 0.1 of the $419 million outstanding Prop. 70 bonds.

Prop. 97 (1988)
The measure required the state to maintain its own OSHA program. The number in Table 2 is the amount the governor proposed for the Cal/OSHA Targeted Inspection and Consultation Fund (part of Division of Occupational Safety and Health, part of California Labor and Workforce Agency) in his January 2003 budget, presumably more than the minimum required expenditure.

Prop. 98 (1988)
The measure guaranteed minimum state spending for K-14 education. The total Prop. 98 guarantee for 2003-04 was $45.7 billion, of which $15.7 billion was projected to come from local property taxes. From the Legislative Analyst's *California Spending Plan 2003-04* (Sacramento, CA).

Prop. 99 (1988)
The initiative locked in spending equal to the revenue that flows into the Cigarette and Tobacco Products Surtax Fund from tobacco surtaxes. The governor's proposed budget in January 2003 estimated revenue for the Fund of $522 million. Of the 25% unallocated part of the Fund, 10 percent ($13.05 million) goes to the Habitat Conservation Fund.

Prop. 103 (1988)
The measure regulated auto insurance rates. The number in Table 2 is the Legislative Analyst's upper bound estimate for administrative costs adjusted for inflation since 1988.

Prop. 116 (1990)
The measured authorized $1.99 billion in bonds for rail transportation. The number in Table 2 is 0.1 of the $1.3 billion of outstanding bonds. See the discussion for Prop. 70 (1988).

Prop. 132 (1990)
The measured banned the use of gill nets off the coast of Southern California. The number is the Legislative Analyst's estimated cost of enforcing the ban number adjusted for inflation since 1990.

Prop. 184 (1994)
"Three strikes and you're out:" the measure toughened sentences on repeat offenders. The number is 10 percent of the Legislative Analyst's estimate in 1994. The original spending projections by RAND that were used by the Legislative Analyst were predicated on universal application of the law. However, the California Supreme Court gave judges significant leeway to ignore the initiative, and the original estimates turned out to be way too high. A RAND study some years after the initiative noted that there is no evidence that any of the costs have actually materialized (Peter W. Greenwood, Susan S. Everingham, Elsa Chen, Alan F. Abrahamse, Nancy Merritt, James Chiesa, *Three Strikes Revisited: An Early Assessment of Implementation and Effects*, National Institute of Justice, U.S. Department of Justice, Document 194106, August 1998: "[T]he impact of the California three-strikes law on incarceration has been modest.") The RAND study argues for assigning no net costs to the measure, but I (rather arbitrarily) assume the true number is 10 percent of the Legislative Analyst's estimate of $3 billion per year. In real terms, state spending on corrections has increased by just under $1 billion since 1994. My estimates assume that Prop. 194 and Prop. 21 in 2000 alone account for $728 million, almost surely an overestimate of their impact.

Prop. 10 (1998)
The measure increased the tax on tobacco products by 50 cent a pack, and dedicated the money to a variety of uses, chiel among them early childhood development programs. The initiative locks in spending equal to the amount raised from tobacco surtaxes for the California Children and Families First Trust Fund. I used the revenue estimate in the governor's proposed budget in January 2003.

Prop. 21 (2000)
The measure toughened sentences for juvenile offenders. The number in Table 2 is the Legislative Analyst's estimate of additional prison operating costs adjusted for inflation since 2000, plus 0.1 of the estimated new construction costs (implicit debt service), not adjusted for inflation. Early indications were that the measure was having a modest effect, for example, the number of juveniles serving time as adults declined after the measure passed, so this number again is likely to be an overestimate.

Prop. 50 (2002)
The measure authorized $3.44 billion of bonds for water projects. The number in Table 2 is 0.1 of the $74 million of outstanding bonds. See the discussion for Prop. 70 (1988).

Table 1
Budget Paralysis by Voter Initiatives: According to the Pundits

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"Whoever is elected governor is essentially running up against the same wall, a budget that is increasingly paralyzed by initiatives."

-- Leon Panetta[1]

"A series of popular initiatives, stretching back 25 years to the famous Proposition 13, has put limits on the taxing power of the state and local communities, while other initiatives have mandated spending on schools, prisons and other projects. The net result: The governor and legislature have little room to maneuver in tough times"

-- David S. Broder[2]

"[D]irect democracy provisions of California's constitution have rendered the state ungovernable. As a result of several voter initiatives, about 70% of state spending is earmarked in advance, limiting the discretion necessary to make trade-offs in a crisis."

-- Laura D'Andrea Tyson[3]

"Empowering the people sounds nice in theory; in practice, it makes it very hard for Sacramento politicians to balance the budget and take care of other state business."

-- *The Economist*[4]

"The accumulating effects of 25 years of initiatives—from the tax limitations of Proposition 13 in 1978, to Proposition 98, the school spending formula passed in 1988, to term limits (1990), to the latter-day ballot-box budgeting that mandates spending on everything from parklands to roads to after-school day care—have so hamstrung both state and local governments that elected legislators, county supervisors and school board members have become the handmaidens, not the leaders, of policymaking in California."

-- Peter Schrag[5]

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[1] Quoted in "Voter Initiatives Limit California's Wiggle Room," by Jonathan Weisman, *Washington Post*, August 14, 2003.
[2] "Million-Dollar Recall," *Washington Post*, July 30, 2003.
[3] "A New Governor Won't Fix What Ails California," *Business Week*, September 22, 2003.
[4] October 6, 2003.
[5] "Voter early, vote often—but vote on everything?," *Sacramento Bee*, October 15, 2003.

Table 2
Amount Appropriated by Initiatives for 2003-04

Year	Prop.	Description	$Billions
1988	98	Education	30.000
1998	10	Early childhood development	0.522
1988	99	Tobacco tax [funds for anti-smoking, wildlife, research]	0.509
2000	21	Juvenile crime [for prisons]	0.428
1994	184	Three strikes and you're out [for prisons]	0.300
1990	116	Rail bonds [authorized $1.99 billion]	0.131
2000	36	Drug treatment	0.120
1988	70	Natural land preservation bonds [authorized $776 million]	0.042
1990	117	Wildlife protection	0.030
1988	103	Auto insurance [administrative spending]	0.023
1988	97	Cal/OSHA	0.013
2002	50	Water projects bonds [authorized $3.44 billion]	0.007
1974	9	Political reform [California FPPC administration]	0.003
1990	132	Gill net ban [enforcement spending]	0.002
1986	86	Toxic discharge [enforcement spending]	0.002
TOTAL			32,132.262

Note. The appendix describes how the numbers are calculated.

Table 3
Initiative Constraints on Revenue Increases

Revenue source	% tax revenue nationwide	Constraints	Initiative
Taxes			
Personal income	34.6	. . .	
Sales (general)	32.9	Prohibited on food	Prop. 163 (1992)
Corporate income	6.2	. . .	
Gas	5.8	. . .	
Motor vehicle	3.1	. . .	
Alcohol & tobacco	2.4	At least 75¢/pack	Prop. 99 (1988), Prop. 10 (1998)
Property	2.3	No more than 1%	Prop. 13 (1978)
Death & gift	1.5	Prohibited	Prop. 6 (1982)
Charges	. . .	. . .	. . .
Lottery	. . .	Required	Prop. 37 (1984)

Note. "% tax revenue nationwide" is the percentage of tax revenue raised from a particular tax by all state governments in 1999 (*Statistical Abstract of the United States, 2002*, Table 417).