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THROUGH A PLANNER'S LENS: NOVEMBER 2008 STATE BALLOTS CHALLENGE VOTERS TO APPROVE AND FUND COMMUNITY DEVELOPMENT, TRANSPORTATION, CONSERVATION, AND RENEWABLE ENERGY PROGRAMS[1]

On November 4th, voters around the country considered 153 statewide ballot measures in 36 states, including 84 measures referred by state legislatures and 59 citizen-driven initiatives. In the flurry of media analysis, most ballot pundits focused on the measures involving social or "progressive" issues, such as gay marriage and abortion. While acknowledging their importance, this report filters the measures somewhat differently through a planner's lens to select 46 measures whose outcome arguably will more directly influence the pace, direction, and shape of growth in in America's communities and regions across the country.

As a planner who has tracked state and local development-related measures for almost 15 years, I have often found fresh, important insights bubbling up from these recurring referendums. A 1998 survey for the Brookings Institution Metropolitan Policy Center caught the nascent wave of discontent that fueled the Smart Growth movement, while scattered grass roots transit measures identified in 2000 helped spark a new era of ballot box fundraising and longer range conversations aimed at revamping transportation finance. In 2006 an unpopular Supreme Court decision on eminent domain quickly resonated in a series of state referendums that influenced public opinion far more than actions in state legislatures.

This year, economic turmoil and a scramble for funds to continue states' larger role in community development programs provide a changed context. Voters approved nearly all of the bonds proposing funds for transportation, conservation, and water quality improvements. (This tracks with national trends: according to *Bond Buyer,* voters were faced with the second largest crop of bonds ever in 2008, and approval rates are above 80%.)

Voters also took a "sophisticated" look at other fiscal measures, observes National Conference of State Legislatures ballot expert Jennie Drage Bowser and did not simply vote to cut taxes and lower spending.

Eminent Domain and Property Rights. Eminent domain and property rights, prominent in 2006, played minor roles in 2008. **Nevada** voters approved a mandatory second review of a post-*Kelo* measure, while **Louisiana** voters narrowly defeated measures that would have eased recently approved restrictions. **Ohio** voters approved a constitutional amendment assuring property owners affected by the recently approved Great Lakes Water Compact of their ownership rights to water on or flowing under their land.

Environmental Protection and Commuter Rail Megaprojects. Voters approved two large ticket items: a 3/8 cent sales tax increase to raise $11 billion over 25 years for a new **Minnesota** Clean Water, Land and Legacy program to support environmental protection and the arts, and a $9.95 billion bond to partly finance a $40 billion, 800 mile high speed train in **California** between Los Angeles and San Francisco. The much debated train, supporters argued, will create a half million jobs, ease congestion, and spark public-private partnerships. Opponents call it a boondoggle that will raise taxes.

Bond Finance for Gray, Green, and Blue Infrastructure. Voters handily approved other bonds for transportation, clean water, wetlands, flood control, revitalization of older cities, transportation, and conservation easement purchases in **Alaska, Arkansas, Maine, Missouri, Ohio, Pennsylvania**, and **Rhode Island**. (A defeated $5 billion bond for renewable energy in California is discussed below.) To gain more control over debt, **New Jersey** voters said "yes" to a governor-supported measure requiring state authorities and independent agencies to seek voter approval for bonds.

Severance Tax Trust Funds. Voters ratified only two (**Utah** and **Alabama**) of the six state proposals to tap into increased state revenues from drilling and leasing oil and gas fields. Alabama's revenues are earmarked for education. **Colorado** voters turned down two competing proposals. One, supported by the governor and opposed by an $11 million campaign, would have broadened the severance tax base, eliminated an industry tax credit, and fund college scholarships, wildlife habitat, and clean energy. The second would have directed new revenues to a controversial transportation trust fund. A rejected measure in **Louisiana** proposed to share new funds between affected communities and transportation. **North Dakota's** measure, also defeated, did not specify how revenues would be allocated.

Renewable Energy. Three statewide measures dealt with energy alternatives and global warming. **Missouri's** Clean Energy Initiative, requiring utilities to generate 2% from renewable energy sources by 2011 and 15% by 2021, was backed by a solid coalition and easily approved. Two ambitious, complicated energy measures in **California,** Initiatives 7 and 10, were defeated. Both were opposed by local conservation and environmental groups, scientists, and others who argued that the measures could exacerbate, rather than ease, the energy crisis and raise consumer prices. One would have required utilities to generate half of their electric power from solar and clean energy sources by 2025, while the second would have issued a $5 billion bond to incentivize purchase of vehicles using alternative fuels and fund research, training, and education programs.

Gaming. Scrambling for funds, six state propositions looked to revenues from casinos and lotteries. Voters approved a constitutional amendment in **Maryland** authorizing slot machines in five locations which promised to direct $300 million a year to education. The measure, referred by the state legislature, was supported by the governor, county officials, and teachers. Three of the other five measures, all initiatives were approved: **Missouri** increased its casino tax to raise $150 million for schools and cities, **Arkansas** created a state lottery to raise $100 million for scholarships, and **Colorado** will fund college scholarships and cities where casinos are located from expanded casino operations. **Maine** and **Ohio** voters rejected proposals to authorize the states' first private casinos.

Property Taxes. **Florida** voters authorized reduced assessments to encourage working waterfronts and conservation easements, while **Georgia** voters said "yes" to use assessments for large private forests in exchange for 15 year commitments. Voters in **Arizona** and **Oregon** signaled support for local control over taxes. They defeated an Arizona measure that would require a majority of registered voters, not just those voting, to approve money measures, while Oregon voters eliminated a requirement that 50% of voters must participate in property tax elections in order for their decisions to become law.

Other Taxes. Initiatives in four states – **Arizona, Massachusetts, North Dakota**, and **Oregon** – would have reduced or limited state tax collections. Only one, barring the adoption of a real estate transfer tax or fee in **Arizona**, was approved. Voters defeated ballot measures to eliminate the income tax in **Massachusetts,** cut corporate and individual income and estate taxes in **North Dakota**, and make federal income tax payments fully deductible when calculating **Oregon** state taxes. In **Georgia**, voters approved a measure allowing local officials to use revenues collected for education on community redevelopment.

I&R Reform. Three states, **Colorado, Ohio,** and **Wyoming**, proposed constitutional modifications to their initiative and referendum process. As ballot measure activity grows, many legislatures are considering actions to curtail alleged abuses, require more transparency, and address other issues. Since the process is often used for measures that affect land use, such changes are relevant to direct democracy's impact on growth-related decisions. Ohio voters approved a constitutional measure that requires earlier submission of petitions, giving officials more time to certify signatures. Colorado and Wyoming voters rejected measures that could have added hurdles to placing initiatives on the ballot.

Conclusion

Virtually ignored for decades, ballot measures are now an accepted part of state elections and increasingly involve referendums on the interrelated issues of planning, community development, and finance. Despite the intensity of the presidential campaign, this trend continued in November 4, 2008.

While anxiety over the economy was much on voters' minds, they continued to support substantial bond investments, along with a major sales tax increase, for land conservation, transportation, and water quality infrastructure. Voters examined measures selectively, rejecting most tax limits, supporting outcomes that gave them more control over local tax levels, and signaling the need for consensus building on the science, economics, and politics of complex renewable energy proposals .

The willingness of taxpayers to support carefully vetted public investments in community development is evident also in local measures tracked by such groups as the Trust for Public Land and Center for Transportation Excellence, which report record approval rates of land conservation and transit measures. Leveraging federal money is often a powerful motivating factor in influencing voters to provide critical matching funds.

In 2008, it appears – pending further investigation -- that measures were more likely to have been placed on the ballot to capitalize on higher voter participation in a hard-fought presidential race than the other way around.   In other years, it was not uncommon for strategists to post "crypto-initiatives" aimed at attracting voters with specific political and philosophic profiles to the polls so they would also vote for another issue or candidate. The impact of increased voter registration on ballot outcome deserves more study.

The November crop of statewide ballot measures raised planning, community development, and finance issues that were largely off the radar screen before November 4th, but present rich insights for the new Administration as it shapes federal leadership for critical development, energy, conservation, and fiscal decisions that will necessarily look to citizens, state and local governments, and private leaders throughout the country for ideas, authorities, energy, and collaborative dollars.

Phyllis Myers, president of State Resource Strategies, a Washington DC based consultant firm, has written extensively on state and local ballot measures and provided research, policy development, and communications services for conservation, planning, urban revitalization, and historic preservation nonprofits as well as federal, state, and local governments.   She serves on the Board of Scholars of the Initiative and Referendum Institute and is an associate member of the Social Equity Panel of the National Academy of Public Administration.