

A Case Study on Direct Democracy: Have Voter Initiatives Paralyzed the California Budget?

By John G. Matsusaka

Contrary to the claims of many pundits, voter initiatives have not constrained the California budget to the extent that fiscal crises are inevitable. I reach this conclusion by examining each of the 111 successful initiatives in the state's history. For the 2009-2010 budget cycle, voter initiatives locked in about 33 percent of spending, most of which probably would have been appropriated even if not required, and placed no significant prohibitions on the two primary sources of state revenue—income and sales taxes.

Introduction

Direct democracy has emerged as a central part of government in many American states and cities in the 21st century. The initiative and referendum are available in more than half of all states and cities, and more than 80 percent of citizens have access to them at the state or local level. Yet citizen lawmaking continues to attract its share of critics, who question whether voters are competent to decide complex policy questions, and claim that initiatives place too many constraints on elected officials, making responsible budgeting difficult. Of course, an important purpose of the initiative and referendum is to constrain government officials, but this can be taken too far: By dedicating large amounts of spending to particular programs while at the same time restricting tax increases, initiatives may restrict the choices of legislators to such a degree that it is virtually impossible to balance the budget, bringing about fiscal gridlock.¹

Nowhere is this argument more often heard than in California. As the state lurches from one fiscal crisis to another, reformers repeatedly single out the initiative process as a major contributor to the state's budgetary troubles. Unfortunately, the argument that initiatives are the cause of the state's problems is based on an impressionistic view of the budget process, not a careful accounting of the actual constraints. As reported in an earlier study (Matsusaka, 2005), the actual constraints imposed on the budget process by initiatives are less severe than many have argued.

This article updates my earlier study by providing a systematic accounting of the constraints placed on the 2009–2010 California budget by initiatives. I reviewed all 111 statewide initiatives

approved by California voters since the process was adopted in 1912 and calculated the total constraints on appropriations and revenues that were in effect in 2009–2010. The main finding remains the same: Voter initiatives have imposed some significant constraints, but fewer than is often claimed. At most, 33 percent of California's 2009–2010 state spending was locked in by initiatives, and it seems likely that much of that money would have been spent for its dedicated purpose even if it had not been required. On the revenue side, initiatives have not placed any significant limits on the legislature's ability to tap the two most important revenue sources for state government, income and sales taxes. In short, while California initiatives do proscribe some policy choices, they leave open a number of paths to balancing the budget.

Initiatives in California

The initiative process allows ordinary citizens to propose laws and constitutional amendments by collecting a predetermined number of signatures from fellow citizens on a petition. When the requisite signatures are collected, the measure is placed on the ballot and becomes law if more votes are cast in favor of it than against it. In addition to initiatives, citizens vote on propositions placed on the ballot by the legislature. Such "legislative measures" are not considered in this article.

In most respects, California's initiative process is similar to that of other states. Statutory measures require signatures equal to 5 percent of the vote cast in the last gubernatorial election, and constitutional amendments require 8 percent. Since all signatures must be collected within a 150-day period, initiative proponents typically employ paid signature collectors. A dis-

tinctive feature of California's initiative process is that adopted measures cannot be modified by the legislature; they can be changed only by the voters themselves. As a result, successful initiatives—even statutory measures—are binding on the legislature and governor.

Californians have decided a total of 329 statewide initiatives through 2009, approving 34 percent of them. Of the successful measures, about half had nontrivial implications for either spending or taxes. The most famous initiative is Proposition 13, approved by voters in 1978, which capped property taxes at 1 percent of assessed value and prohibited assessment increases in excess of the inflation rate or 2 percent, whichever is lower.

Initiative Constraints on Spending in 2009–2010

To identify the constraints on state spending, I read through the ballot descriptions and arguments for and against each initiative approved by the voters since the process became available in 1912 and identified those with a potential fiscal impact of at least \$1 million. I eliminated any measures that had expired (such as a bond issue from the early 20th century that was paid off), been repealed or superseded by another measure, been struck down by a court, or was otherwise ineffective for 2009–2010. For the remaining initiatives, I calculated the amount of money each initiative locked in by reading through its statutory and constitutional provisions and consulting current budget documents where relevant. Where there was uncertainty about the amounts involved, I used the largest reasonable number supplied by the nonpartisan legislative analyst or other nonpartisan observer. For example, the lock-in attributed to Proposition 21 of 2000 on juvenile crime was the official estimate from the legislative analyst in 2000 (adjusted for inflation) even though courts have weakened that initiative, making the actual costs much lower than anticipated. Because I report the largest plausible amounts, the final numbers are likely to overstate the true constraints from these initiatives. Details of the assessments are in the appendix and the original article (Matsusaka, 2005). Note that initiatives that constrain spending downward, such as Proposition 4 of 1979, are omitted in order to focus on initiatives that obstruct budget balance.²

Table A lists the 20 initiatives that locked in state spending for the 2009–2010 fiscal year, and

the amount committed by each. The initiative with by far the largest fiscal impact is Proposition 98 of 1988 that locked in \$34.66 billion of state spending for K–14 (K–12 plus community colleges) education in 2009–2010. The next most costly measure was Proposition 63 of 2004 that committed \$1.752 billion to mental health services, funded by a surtax on millionaires. No other initiatives locked in more than \$1 billion.

In total, these 20 initiatives committed the state to \$39 billion in spending for the 2009–2010 fiscal year. To put the figure in perspective, total state spending for the fiscal year was \$119 billion. Thus, voter initiatives locked in about 33 percent of the budget. The claim made by some pundits that 70 percent of the budget is earmarked in advance by initiatives is far off the mark. This figure of 33 percent gives an exaggerated sense of the true constraints because the state would have appropriated much of the \$34.66 billion on education committed by Proposition 98 even without the initiative. A requirement to spend money that would have been spent anyway is only a constraint in name.

The evidence also contradicts the picture of California being encumbered year after year by a series of incompatible voter demands. Table A shows that the constraints are not the result of a gradual accumulation of mandates but rather are almost entirely the result of a single initiative, Proposition 98. Without Proposition 98, only 4 percent of the budget is locked in by initiatives. Concerns about initiatives and fiscal gridlock in California should be seen as concerns about Proposition 98, not the rest of the initiatives.

Initiative Constraints on Revenue in 2009–2010

A deficit can be closed by cutting spending or raising revenue, or some combination of the two. The previous section reports the constraints on spending cuts; this section considers initiative limits on raising revenue. The same approach as for spending is followed here, identifying all initiatives that constrain the legislature's ability to raise money.

Table B lists the main revenue sources for state governments nationwide and the constraints placed on them in California by initiatives. To put things in perspective, taxes are listed in order of their importance for state governments nationwide—taxes comprise about 75 percent of states' general revenue from own sources, with

Table A
Amount of California State Spending Appropriated by Initiatives, 2009–10

<i>Year</i>	<i>Proposition</i>	<i>Description</i>	<i>\$ Billions</i>
1988	98	Education	34.66
2004	63	Millionaire surtax for mental health services	1.752
2002	49	After school programs	0.55
1998	10	Early childhood development	0.528
2000	21	Juvenile crime [for prisons]	0.449
1994	184	Three strikes and you're out [for prisons]	0.434
1988	99	Tobacco tax [funds for anti-smoking, wildlife, research]	0.286
2002	50	Water projects bonds [authorized \$3.44 billion]	0.228
2006	84	Water bonds [authorized \$5.388 billion]	0.132
1990	116	Rail bonds [authorized \$1.99 billion]	0.101
2004	71	Stem cell research bonds [authorized \$3 billion]	0.092
2004	61	Childrens' hospitals bonds [authorized \$750 million]	0.07
1990	117	Wildlife protection	0.03
2008	3	Childrens' hospitals bonds [authorized \$980 million]	0.029
1988	103	Auto insurance [administrative spending]	0.027
1988	70	Natural resource preservation bonds [authorized \$776 million]	0.021
1988	97	Cal/OSHA	0.01
1974	9	Political reform [California FPPC administration]	0.004
1990	132	Gill net ban [enforcement spending]	0.002
1986	65	Toxic discharge [enforcement spending]	0.002
Total appropriation by initiatives			39.407
Total state expenditures (excluding federal funds)			119,244.90

Note: The Appendix describes how these numbers were evaluated.

the rest coming mostly from charges for services and user fees.

Initiatives created no barriers to raising the personal income tax (other than a requirement that rates be indexed) and created only a modest constraint on raising the state sales tax (it cannot be applied to food), which are by far the two most important revenue sources for state governments. The five most important revenue sources were essentially unconstrained by voter initiatives, and three of the constraints actually increased revenue: a 1 percent personal income tax surcharge for millionaires, a minimum tobacco tax of 75 cents a pack, and a state lottery. Initiatives did impose two major obstacles to tax increases. Proposition 13 of 1978 set the maximum property tax rate at 1 percent of assessed value and limited assessment increases, and Proposition 6 of 1982 essentially eliminated death and gift taxes. Property and inheritance taxes, however, are relatively minor sources of revenue for state governments.³

What may be the most important initiative constraint on revenue increases does not appear

in Table B: Proposition 13's requirement of a two-thirds vote of the legislature to increase any state tax. While not technically a constraint on the legislature's ability to raise taxes—the legislature is permitted to raise any tax in any amount that it was permitted to raise before voters approved the initiative—this requirement certainly increases the degree of consensus required to raise taxes, and complicates the underlying politics.

Other Issues

Trends

My original study examined the situation in 2003–2004. The upper-bound estimate of locked-in spending at that point was \$32.1 billion, equal to about 32 percent of the \$101 billion in state expenditures. In the intervening six years, the amount of constrained spending has increased by a little more than \$2 billion. Most of this increase is due to Proposition 62, narrowly approved in 2004 with 54 percent in favor, and several bond propositions. Proposition 62 imposed a 1 percent surtax on personal income and dedicated that

Table B
Initiative Constraints on Revenue Increases in California, 2009–10

<i>Revenue source</i>	<i>Percent tax revenue nationwide</i>	<i>Constraints</i>	<i>Initiative</i>
Taxes			
Personal income.....	35	Minimum 1% surtax on millionaires	Proposition 63 (2004)
Sales (general).....	31	Prohibited on food	Proposition 163 (1992)
Corporate income.....	7	None	
Gasoline.....	5	None	
Alcohol & tobacco.....	3	At least 75¢/pack	Proposition 99 (1988), Proposition 10 (1998)
Property.....	2	No more than 1%	Proposition 13 (1978)
Death & gift.....	0.7	Prohibited	Proposition 6 (1982)
Charges.....	...	None	...
Lottery.....	...	Required	Proposition 37 (1984)

Note: "Percent Tax Revenue Nationwide" is the percentage of tax revenue raised from a particular tax by all state governments in 2007

(Statistical Abstract of the United States, 2010, Table 441). Tax revenue does not include revenue from charges and lottery.

revenue for mental health services. That revenue was forecast to be about \$858 million in 2009–2010. The initiative also prevented the state from reducing its existing level of support for mental health services, locking in an additional \$894 million.

Since 2003, voters have also approved more than \$10 billion in four initiative bond measures: Proposition 61 of 2004 providing \$750 million for children's hospitals, Proposition 71 of 2004 providing \$3 billion for stem cell research, Proposition 84 of 2006 providing nearly \$5.4 billion for water bonds, and Proposition 3 of 2008 providing \$980 million for children's hospitals. The only countervailing effect over the last six years concerned Proposition 36 of 2000; that initiative's guarantee of \$120 million per year for substance abuse expired in 2006.

Legislative Measures

The California budget is also constrained by propositions placed on the ballot by the legislature. California requires the legislature to obtain voter approval for constitutional amendments and bond issues. My original study provided some information on legislature-sponsored bond proposals, concluding the amount of money they had committed was modest. The last six years seem different: The legislature requested and voters have authorized a staggering \$74.621 billion in new bonds since 2003. If these bonds are all issued, they will provide a noticeable drag on the budget in future years.

Other Constraints

The evidence here pertains to constraints arising from initiatives, ignoring noninitiative constraints on California's budget. State spending decisions are restricted by the U.S. Constitution (for example, prison spending can only cut so much before prison conditions will violate the prohibition against cruel and unusual punishment) and the California Constitution (for example, the California Supreme Court has limited the state's ability to refuse to pay for abortions for MediCal recipients on constitutional grounds). Even if the initiative constraints are weak, it could be the case that federal mandates and obligations created by previous actions of the legislature are so constraining as to create gridlock. It would take a careful accounting of those other constraints to draw an authoritative conclusion on this possibility.

Implications

After updating for initiatives over the past six years, the conclusions from my original study still seem about right: Initiatives are not to blame for the state's budget crisis. Initiatives lock in, at most, 33 percent of state spending, much of which would have been appropriated even without initiatives, and do not prohibit the legislature from raising the state's most important taxes. But while initiatives don't prevent the legislature from balancing the budget, they do seem to limit the options available to bring the budget into balance. Given the array of existing initiatives, the path of least resistance for balancing the budget is to

cut noneducation funding (education spending is protected and tax increases require a supermajority). The state's repeated fiscal problems are best seen as a consequence of the legislature's unwillingness to go down that path. Initiatives seem to cause problems because they channel solutions to fiscal problems in directions that are not favored by most legislators. Reasonable people can disagree whether balancing the budget through cuts in noneducation spending as opposed to cuts in education spending or tax increases is good policy, but it does not seem that voter initiatives have made it impossible to balance the budget.

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Notes

¹A summary of the main arguments for and against direct democracy, basic facts, and state-by-state provisions can be found in Lupia and Matsusaka (2004) and Matsusaka (2004, 2005).

²A general disclaimer: Some assessments require judgment calls, and minor omissions are possible. I am confident that the numbers reported here are reasonably accurate, and to the extent there are mistakes, it is in the direction of making the constraints appear too large.

³This conclusion deserves some qualification. Although states do not rely on property taxes, property tax revenues are important for local government. By capping property taxes, Proposition 13 to some extent "forced" the state to backfill local government revenue. For a detailed discussion of this issue and an estimate of its revenue implications for the state (not large, as it turns out), see the original study (Matsusaka, 2005).

Appendix

Estimating the Initiative's Impact on California Spending, 2009–10

This appendix describes how I calculated the amount of money locked in by initiatives, reported in Table A. References to the "Legislative Analyst's estimates" refer to the estimates provided by the state Legislative Analyst in the California Ballot Pamphlet, published by the California secretary of state prior to each election. The ratio of debt service to debt was an assumed to be 10 percent of the outstanding debt as of Dec. 31, 2009.

Proposition 9 (1974) — Political reform

The measure requires an appropriation of not less than \$1 million (adjusted for inflation) for the California Fair Political Practices Commission. The number in Table A is \$1 million adjusted for inflation since 1975 using the U.S. Census Bureau's Consumer Price Index. The commission is typically funded in excess of the minimum requirement.

Proposition 86 (1986) — Toxic discharge

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

Proposition 70 (1988) — Natural resource preservation bonds

The measure authorized \$776 million in bonds to purchase and maintain wildlife, coastal and park lands. Outstanding general debt was \$207.55 million.

Proposition 97 (1988) — Cal/OSHA

The measure required the state to maintain its own Occupational Safety and Hazard program. The number in Table A is the enacted budget total for the Targeted Inspection and Consultation Fund.

Proposition 98 (1988) — Education

The measure guaranteed minimum state spending for K-14 education from the Department of Finance's Chart C.

Proposition 99 (1988) — Tobacco tax

The measure locked in spending equal to the revenue that flows into the Cigarette and Tobacco Products Surtax Fund from tobacco surtaxes.

Proposition 103 (1988) — Auto insurance

The measure regulated automobile insurance rates. The number in Table A is the legislative analyst's upper estimate for state administrative costs adjusted for inflation since 1988.

Proposition 116 (1990) — Rail bonds

The measure authorized \$1.99 billion in bonds for rail transportation. Outstanding debt was \$1.01 billion.

Proposition 117 (1990) — Wildlife protection

The measure created the Habitat Conservation Fund to acquire land for parks and to protect wildlife, and guaranteed the fund at \$30 million per year.

Proposition 132 (1990) — Gill net ban

The measure 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 adjusted for inflation since 1990.

Proposition 184 (1994) — Three strikes

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 the RAND Corporation that were used by the legislative analyst were predicated on universal application of the law. The California Supreme Court, however, subsequently gave

judges significant leeway to ignore the initiative, and the original estimates turned out to be much too high, leading a subsequent RAND study that concluded there was no evidence any of the projected costs actually materialized. Rather arbitrarily, the actual cost is an assumed 10 percent of the legislative analyst's estimate of \$3 billion per year.

Proposition 10 (1998) — Early childhood development

The measure increased the tax on cigarettes by 50 cents a pack, and dedicated the money to a variety of uses, chief among them early childhood development programs. The initiative locks in spending equal to the amount raised from the tobacco surtax for the California Children and Families First Trust Fund.

Proposition 21 (2000) — Juvenile crime

The measure toughened sentences for juvenile offenders. The number in Table A 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. The number of juveniles serving time as adults declined after the measure passed so this number is likely to be an overestimate of the measure's true cost.

Proposition 49 (2002) — After school programs

The measure required the state to spend \$550 million per year on after school programs.

Proposition 50 (2002) — Water projects bonds

The measure authorized \$3.44 billion of bonds for water projects. Outstanding bonds and commercial paper was \$2.28 billion.

Proposition 61 (2004) — Children's hospitals bonds

The measure authorized \$750 million of bonds, with \$695 million outstanding.

Proposition 62 (2004) — Surtax on millionaires for mental health services

The measure levied an additional 1 percent tax on personal income greater than \$1 million, with revenue dedicated health service programs (county programs for mentally ill). This measure also prohibited the state from reducing General Fund support for mental health services below the level in 2003-2004. Forecast revenue was \$858 million, and spending in 2003-2004 was \$894 million.

Proposition 71 (2004) — Stem cell research bonds

The measure authorized \$3 billion of bonds, with \$916 million outstanding.

Proposition 84 (2006) — Water bonds

The measure authorized nearly \$5.4 billion of bonds for water and conservation projects, with \$1.32 billion outstanding.

Proposition 3 (2008) — Children's hospitals bonds

The measure authorized \$980 million of bonds, with \$295 million outstanding.