

INTRODUCTION

A November Ballot That, If You Can Wade Through It, Will Tell Us Much About Which Way California Leans

By Bill Whalen

Election Night in California looks something like this: the polls close at 8 p.m., the presidential race is called as soon as the local news personalities dispense with the pleasantries, and Democrats party into the night while Republicans turn in early.

Let's suppose you're a Californian and, regardless of your political stripes, want to have a say in the national election: assuming you want to do something other than give money, opportunity awaits in nearby battleground states like Arizona and Nevada.

OK, I'm exaggerating a little. California does have a voice in 2016, albeit not the throaty cry one would expect of a nation-state of nearly 40 million residents and 55 electoral votes.

While the solid-blue Golden State won't tip the balance between Hillary Clinton and Donald Trump, there are a select few congressional districts that factor into the Democrats' outside chances of retaking the US House of Representatives.

Then there's the matter of statewide ballot measures—17 of them up for consideration on November 8. While none of the measures has raised the electorate's temperatures as did, say, past debates over [illegal immigration](#) or [the definition of marriage](#), this year's collection serves as a barometer for California's political climate. Is it a little or a lot to the left, or a back-and-forth vacillation from left to center and back with an occasional turn to the right?

If you have the patience, feel free to make sense of California's record-long 224-page Voter Guide (available [here](#), in ten languages, on the Secretary of State's web site).

For the purposes of this discussion, we're not going into the intricacies of, say, [Proposition 60](#) and the merits of whether adult-film producers should require their "talent" to don condoms (back when I worked in Sacramento, the annual visit by [the Freedom of Speech Coalition](#)—i.e., porn stars and sex entrepreneurs—was one of the more colorful days under the State Capitol dome).

However, there are a few ballot topics worthy of a closer look and a conversation, which is what we're providing in this latest edition of *Eureka*.

For your review and consideration:

- Carson Bruno, Assistant Dean for Admissions and Program Relations at Pepperdine University's School of Public Policy and former Hoover research fellow, dives into whether the ballot is the appropriate place to alter how Californians behave;
- Soon-to-be former Assembly member Kristin Olsen discusses how voter approval of [Proposition 54](#) will kill the Sacramento legislative culture of "you have to pass it to find out what's in it";

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- I take a look at things plaguing California in presidential election years—too little attention, too little party competition, too many ballot initiatives—and offer a few reforms;
- And for more information about the mood of Californians in this election—how they feel about the presidential and Senate candidates, and where they stand on a select few high-profile ballot measures, Hoover research fellow Tammy Frisby explores the most recent Hoover/Lane Center Golden State Poll.

We hope you enjoy this latest installment of *Eureka*—and that it gets you thinking about where California stands and if we're moving in the right direction.

Bill Whalen is a Hoover Institution research fellow, primarily studying California's political trends. From 1995 to 1999, Bill served as chief speechwriter and Director of Public Affairs for former California Governor Pete Wilson.



FEATURED COMMENTARY

Altering Californian Behavior by the Ballot

By Carson Bruno

Public policy at its very core is functionally using government action (or inaction) to alter how people behave, in some form or another. This doesn't necessarily mean brute government force, i.e. bans, mandates, or government's monopoly over violence, as using market mechanisms also strives to alter behavior. Behavioral changes can be as simple as stopping at red lights to ensure orderly vehicle movement or as complex as altering the incentives to alleviate the symptoms or causes of poverty.

The inherent battle in politics is answering three distinct but connected questions:

- 1) What is the appropriate behavior?
- 2) Is it government's role to be involved with changing said behavior?
- 3) And what is the most effective (or least distortionary) way to alter that behavior?

The answer to those questions is more about ideological philosophy, so I won't dive into that. Instead, I want to focus on the tools by which our political system goes about answering those questions.

Overall, our entire government process—regular and constant elections, a multi-tiered federalized system with judicial review, two competing legislative chambers and separation of powers, the legislative process of committee and full chamber votes, and gubernatorial or presidential vetoes—is designed to ensure these questions are answered via consensus and compromise by (at least, theoretically) individuals who have the time and ability to comprehend the intricacies and complexities of these three questions.

But there's another governance tool that lies outside the realm of the political process described above: the initiative system. Ballot propositions are essentially the opposite of how our structural, representative governance system was designed. The initiative isn't about consensus building; it's brute majoritarian rule.

And this has implications when ballot measures venture into forcing behavioral changes on Californians. Many of California's most iconic ballot propositions were actually about altering government behavior. Proposition 13, for example, restricts how the government collects property taxes and passes new taxes. Proposition 98 mandates government spending minimums for education, tying legislators' hands around the budgeting process. And more recently, Proposition 14 forced major election reforms on the political status quo. But 2016's ballot is full of efforts to change Californians' behavior, the most dominant being **PROPOSITION 56**, Proposition 61, and Proposition 64.

The problem with each of these measures isn't necessarily the behavior change it strives to alter—although those are worthy issues to debate—but whether the inflexible initiative system is the right tool to force those changes.

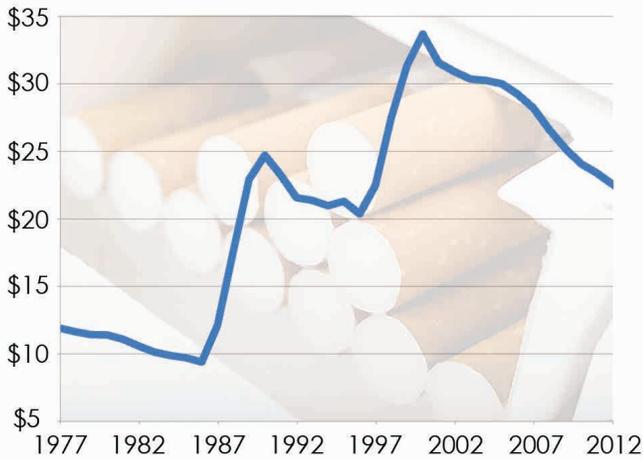
Proposition 56—Reducing Smoking, Increasing Budget Holes

There's little doubt that Proposition 56 will decrease smoking rates further in California. According to the [Center on Budget and Policy Priorities](#), a 10% increase in the price per pack of cigarettes results in a 5% to 15% decline in smoking for those under the age of 18 and 3% to 7% decrease among adults. This is exactly the behavioral change Proposition 56 proponents want and few would argue that fewer smokers is a bad thing.

But the measure also dictates explicitly how the revenues collected from the tax must be spent. And as we know, initiatives are extraordinarily difficult to amend or repeal, largely requiring another vote of the people to do so. This creates a paradox. Proposition 56 aims to fund ongoing programs. But it does so on a tax base that is specifically meant to get smaller. Thus, as Proposition 56 is successful, it will bring in less revenue, creating a budget hole that will require other funds, likely diverted from other programs, to fill the funding gaps.



FOLLOWING EACH CIGARETTE TAX INCREASE, REVENUES SPIKE & IMMEDIATELY DECLINE (3-YR ROLLING AVG. PER CAPITA TOBACCO TAX REVENUE)



Source: Tax Policy Center, *Tobacco Tax Revenue and Governing Magazine, Sin Tax Revenues by State*
 Statement: Californians increased the state cigarette tax in 1988 via Proposition 99 and then again in 1998 via Proposition 10.

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Proposition 61—Increasing Pharmaceuticals Demand, Decreasing Pharmaceuticals Supply

By imposing a price control, in effect a price ceiling, on pharmaceuticals purchased by the State of California for some of its government health care programs, Proposition 61 aims to lower drug costs for the state.

But based on historical experience, price ceilings (such as the 1970s oil crisis and the resulting gasoline price ceilings or, more commonly, rent control efforts) create a surge in quantity demanded of the controlled good, while simultaneously leading to a drop in the quantity supplied of the controlled good. Despite government’s best efforts (or hopes), it is not immune to the law of supply and demand; nor do its policies have the ability to usurp it.

Proposition 61 will change Californians’ behavior, just not in the ways it intends. Pharmaceuticals will get more expensive and sparser.

Proposition 64—Ending Prohibition, Tying the Legislature’s Hands

Evidence from Colorado’s recent legalization of recreational marijuana suggests that if there is an increase in marijuana use, it is small and might be fleeting (i.e., the initial legalization piques interest among new users temporarily). At the end of the day, legalizing recreational marijuana is all about

eliminating the black market and the serious problems its existence causes.

But while Proposition 64 will end prohibition, it may not actually eliminate the drug’s black market. The devil is in the details of the measure. Or rather, the devil *is* the details.

Proposition 64 is very specific in how the state must go about creating and implementing the regulated, legal marijuana market. Oddly enough, it’s actually too specific. Eliminating the black market rests on ensuring legal marijuana has a better price than black market competitors. But Proposition 64 sets in stone the tax levels to be levied on legal marijuana cultivation and sale. Those might be the right tax rates. But they also may be too high. We just won’t know until implementation occurs.

If the Colorado experiment with legalization has taught us anything, it’s that tinkering is a reality. And with the initiative system’s inflexibility, we’ll be stuck with what we’ve got if Proposition 64 passes.

NEITHER YOUTH NOR ADULT MARIJUANA USE HAS SIGNIFICANTLY CHANGED SINCE RECREATIONAL LEGALIZATION IN COLORADO

	 Pre-Legalization	 Post-Legalization
Adult	11%	14%
Youth	22%	21%

Source: Colorado Department of Public Health and Environment
 Note: Percentages reflect those who have used marijuana at least once in the last 30 days; Adult Pre & Post Years are 2010 and 2014; Youth Pre & Post Years are 2011 and 2015

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In the [last issue of Eureka](#), I laid out why it’s time to rethink California’s initiative system. Simply put, the system’s inflexibility means we are stuck with the good and the bad of approved ballot measures with few (if any) tools to fix or repeal the bad and update the good. This matters when we are using majoritarian rule—with an unquestionable lack of good information—to alter how people behave.

Carson Bruno is the Assistant Dean for Admissions and Program Relations at Pepperdine University’s School of Public Policy. Until recently, Carson was a Hoover Institution research fellow, studying California’s political, electoral, and policy landscapes.



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2016 PROPOSITION 56



California currently charges an 87-cent-per-pack tobacco excise tax on cigarettes; Proposition 56 would increase the tax by \$2 per pack to fund various health care and anti-tobacco programs. In 2012, despite initially polling well, voters rejected Proposition 29, which would have increased the excise tax on tobacco products by \$1 per pack. Proponents hope their arguments—reducing smoking rates and reducing health care costs—work to overcome the general concerns about increasing cigarette taxes: i.e., their regressivity and being a declining revenue source for ongoing government programs.

Proposition 54 Will Shine a Light on Legislative Secrecy

By Kristin Olsen

Do you remember when Congresswoman Nancy Pelosi said about the Affordable Care Act, “We have to pass the bill so that you can find out what is in it . . .”? She was mocked for that statement, and rightly so. Unfortunately, that type of legislating in the dark has too often been the norm in California.

It’s common practice in Sacramento for bills to be gutted late in the legislative session, their wording “amended” with completely new language, and then voted on without committee oversight hearings, without being published on the state website for public review, and without legislators being given time to read and consider them.

In 2011, an education bill was passed fifteen minutes before legislators even received its language. The bill imposed financial hardships on schools all across California, but no educators had the opportunity to voice concerns. And legislators didn’t even have the opportunity to read the bill. That’s unacceptable. How can we possibly be expected to make wise decisions if we don’t have an opportunity to review the language?

That year, 48 bills were completely rewritten in the final weeks of the session, twenty-two of which made it to the Governor’s desk; he signed all but three of them. Bills that had been gutted and amended and rushed through the process passed at a rate of 46 percent, which was significantly higher than bills approved through the normal committee review process.

Examples like these send a bad message to the public and contribute to cynical attitudes toward the Legislature. It’s no

ALMOST 1-IN-5 2016 CHAPTERED BILLS WERE PASSED FEWER THAN 72 HOURS AFTER ITS MOST PREVIOUS VOTE OR AMENDMENT

	Chaptered Bills	Last Vote Within 72 Hrs of Previous Vote	% Violating 72 Hr Rule
Assembly Bills	574	59	10.3%
Senate Bills	319	105	32.9%
Total Chaptered Bills	893	164	18.4%

Source: *California Legislative Information, 2015-2016 Session, 2016 Chapter Year, Both Houses*

Note: Excludes special session bills, resolutions, and vetoed bills; only examines last vote in relation to most previous vote in determine 72 hr rule.

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wonder that nearly half of likely voters disapprove of the way the California Legislature is handling its job, according to a Public Policy Institute of California poll.

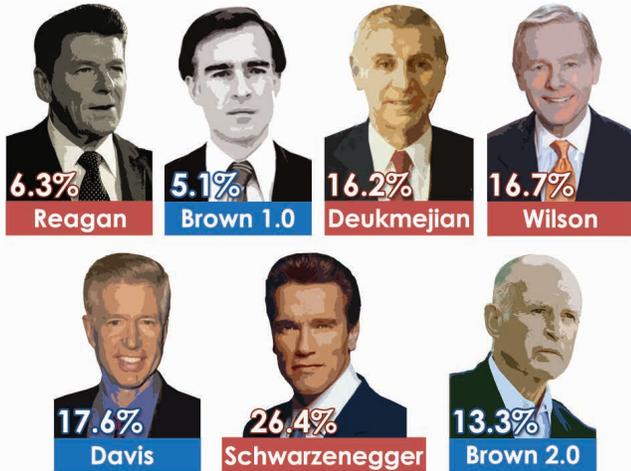
Over the past six years that I have served in the State Assembly, I have introduced legislation to curb this abuse in every single session. My latest effort, [Assembly Constitutional Amendment 1](#), would have prohibited the Legislature from passing a bill unless it had been made available in print and on the Internet for 72 hours prior to the vote, except in the case of a declared emergency.

Unfortunately, that bill, like three similar legislative attempts before it, was never allowed to come up for a vote, [despite having no filed opposition](#). Year after year, efforts to shed more light on state lawmaking are shelved. The status quo powers in Sacramento are quick to mandate greater transparency on local governments, businesses, and nonprofits, but refuse to apply such rules to themselves. Simply put, the Legislature should hold itself accountable to the same standards of open, transparent government.

Fortunately, [PROPOSITION 54](#) on the November ballot allows Californians the chance to vote on commonsense transparency reforms. It would require bills to be posted on the Internet at least 72 hours before a vote (with the exception of emergencies officially declared by the Governor). It also requires that all of the Legislature’s public meetings be recorded and posted on the Internet within 24 hours and archived online for at least 20 years. And lastly, it allows the public to record and broadcast meetings and use the recordings for any legitimate purpose without paying a fee to the state.



EXCEPT FOR GOVERNOR BROWN (DURING BOTH HIS TENURES), EACH SUCCEEDING GOVERNOR HAS HAD A HIGHER VETO RATE THAN THEIR PREDECESSOR



Source: California Senate Office of Research & the Los Angeles Times

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Too much lawmaking in California happens in the middle of the night when the public isn't watching, which makes a mockery of democracy. As former Supreme Court Justice Louis Brandeis once observed, "Sunlight is said to be the best of disinfectants." It's time to shine a light and modernize the legislative process, ending the backroom deal-making that dominates too much of what goes on at the State Capitol.

Kristin Olsen, a former Modesto City Councilmember, represents the State Assembly's 12th District and is currently running for the Stanislaus County Board of Supervisors. Kristin has consistently championed government transparency, education reform, and fiscal responsibility.



CALNOTES:

2016 PROPOSITION 54



Dubbed the Legislature Transparency Act, Proposition 54 would prohibit the State Legislature from voting on any bill until it has been made publicly available for at least 72 hours. The measure would also mandate all public legislative meetings be recorded and made publicly available within 24 hours and would make it legal for anyone to record and post public legislative meetings. Supporters argue this will increase transparency in the legislative process and reduce the practice of gut-and-amend. Opponents question the necessity and intent of the measure.

What a Non-Exciting Election in California Says: As Maine Goes, So Too Should the Golden State?

By Bill Whalen

It's a presidential election little different from others in the California of the past quarter of a century.

We don't know the exact numbers where Hillary Clinton and Donald Trump will end up, but here's an educated guess: Clinton, the Democratic presidential nominee, will wind up near or north of 60% of the nation-state's vote. It's where Obama twice finished in his two presidential runs—against stronger Republican opposition.

And Trump?

Since 1996, only George W. Bush has managed to collect more than 40% of the California presidential vote. Trump, lacking the same intraparty support as past GOP nominees have enjoyed and facing a potential backlash from California's ascending Latino population, could very well fail to clear the low bar of 36.95% set by John McCain in 2008.

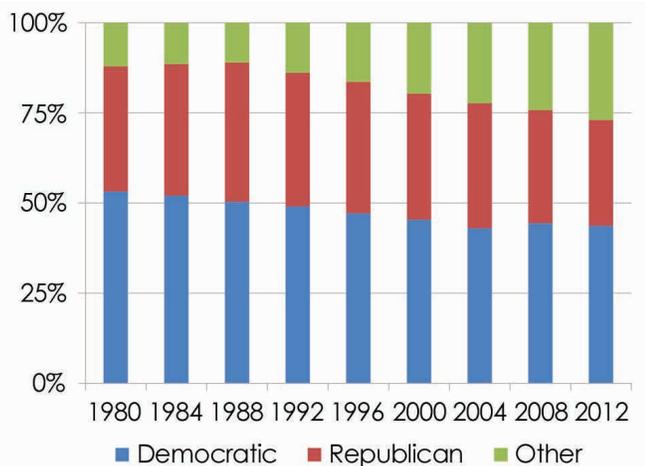
This lack of competition breeds some bad side effects. Neither national party does much in the way of advertising or outreach in California, thus leaving voters feeling neglected. That sentiment's made worse by constant news reports of candidates seducing and abandoning the state. Both Democrats and Republicans drop into the wealthiest pockets of Los Angeles and San Francisco for splashy fundraisers, then exit the next day in the political equivalent of a one-night stand.

But there's a new twist in California's fortunes in 2016: the "top-two" primary system that advances the leading candidates in statewide races to the general election regardless of political affiliation ([the summertime edition of Eureka](#) explored the pros and cons of this change).

Sure enough, this year's US Senate race in California—the first such contest not to have either Dianne Feinstein or Barbara Boxer on the ballot since 1988—features not one but two Democrats vying for the right to replace Boxer, who's stepping down after four terms. (Point of trivia: California is the only of the fifty states to have the same two sitting Senators who were in attendance for Bill Clinton's inaugural in January 1993.)

So what's a California conservative to do in this election? There are always the more local House races. Then again, Republicans hold [only fourteen of the Golden State's fifty-three congressional seats](#) (they held nineteen a decade ago)—and several

THE 3rd PARTY/INDEPENDENT VOTER REGISTRATION BOOM HAS BEEN MORE AT THE EXPENSE OF REPUBLICANS THAN DEMOCRATS



Source: *California Secretary of State*

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of those are in danger if Trump proves to be a pariah at the top of the ticket.

A more likely conservative destination: [the 17 initiatives on November's statewide ballot](#). But here, conservatives struggle in at least two regards.

First, it's a ballot fraught with ideas tailored for a higher turnout-Democratic electorate that tilts left in a presidential year—[higher taxes](#), [legalizing marijuana](#), [abolishing capital punishment](#), [earlier prisoner parole](#), and [STRICTER GUN CONTROL](#) for starters.

The right can try to stop such measures from going into law, but it's a tough numbers game: as of early October, only 26% of registered California voters identify as Republicans versus 45% who identify as Democrats and the independent share continues to rise on a trajectory that will overtake the GOP total in the near future.

Thus, for California's right, the formula for winning is to build a conservative base and then win over independents. But to do so requires money. Good luck building a war chest to defeat left-of-center initiatives when part of the calculation—in particular, with regard to measures that boost spending or raise taxes—includes incurring the wrath of a state government run top-to-bottom by Democrats.

If you're a conservative who hasn't already fled the Golden State for redder pastures, how can you change the present state of California's affairs?

While a series of columns is needed for a comprehensive discussion of how to rebuild the conservative existence in California, let's concentrate on two areas: amending the initiative process and tinkering with California Electoral College vote allocation.

Fitting for a state cursed by some of the nation's worst bumper-to-bumper gridlock, the Golden State's initiative process has devolved to a biennial traffic jam. Over the past four decades, Californians have been asked seven times to sign off on 17 or more measures on a single ballot.

Soon after he took office in 2011, Governor Jerry Brown approved a Democratic-passed initiative process rewrite that banned initiatives from California's June primary ballot (a bit ironic, since it was 1970s-era Secretary of State Jerry Brown who opened the June primaries to initiatives).

The stated reason for the change: initiatives deserve a larger viewing audience. The political motivation: general elections are more [amiable to left-leaning causes](#).

In a better world, and for the sake of Californians overwhelmed by their doorstep of a 2016 voters' guide ([224 pages in length](#)), the Golden State should re-open the June primary to initiatives and referenda. For 2016, it's where about half of the current load would have landed.

Other potential fixes on the initiative front: qualification and duration.

Under current state law, petitions proposing initiative statutes must collect a number of signatures equal to or surpassing 5% of the vote in the most recent gubernatorial election. For constitutional amendments, the bar is set at 8%.

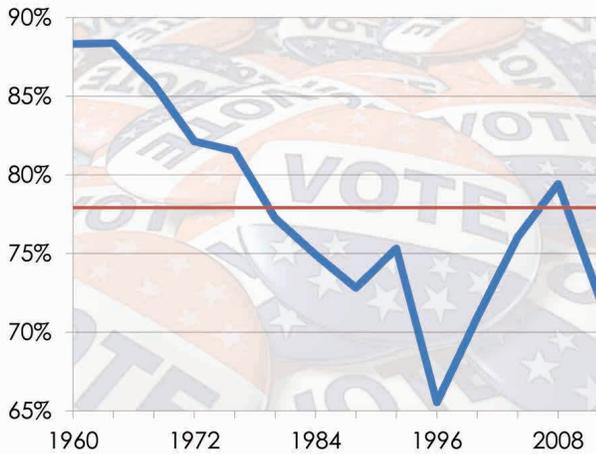
Given the historically awful turnout in California's 2014 gubernatorial race (just 42% of registered voters), that means only 365,880 signatures were needed to qualify initiative statutes in this election—and only 585,407 for constitutional amendments.

Here's one way to change the game: base the signature thresholds not on past turnout but instead on percentages of California's 18 million-plus registered voters. For 2016, that would have meant 885,000 signatures for initiative statutes and 1.4 million for constitutional amendments.

A third change: adding sunset provisions to initiatives—for the sake of argument, let's say a forty-year expiration date. Under such a rule, the 2018 election in California would be dominated by whether to extend [the landmark Proposition 13](#).



DESPITE A SHORT REBOUND IN THE EARLY 2000s, VOTER TURNOUT HAS BEEN STEADILY FALLING FROM ITS 1960 PEAK



Source: California Secretary of State

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Bill Whalen is a Hoover Institution research fellow, primarily studying California's political trends. From 1995 to 1999, Bill served as chief speechwriter and Director of Public Affairs for former California Governor Pete Wilson.



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2016 PROPOSITION 63



A "Yes" vote on Proposition 63 would ban large-capacity ammunition magazines and require many people to pass background checks before purchasing ammunition. The measure would also make it a misdemeanor to sell ammunition within California without a special license and would create a court process to remove firearms from those illegally possessing them. Proponents argue this would increase public safety by closing dangerous loopholes. Opponents believe this will overburden law-abiding citizens while doing little to prevent gun violence.

The other way that California should shake off its blue-state blues: replicate Maine.

Maine has become a player in national elections despite only having four Electoral College votes and a decided liberal lean. Rather than giving the winner of the statewide popular vote all four votes, Maine awards two for winning the popular, then one electoral vote for the state's two congressional districts (Nebraska has a similar rule).

The prospect of Trump snatching that one lone vote in the state's rural Second Congressional District has made Maine a popular stop on the trail for the GOP ticket. What if a California ballot measure in 2018 proposed bringing the Maine/Nebraska system to the West Coast in 2020?

In 2012, Mitt Romney carried **11 congressional districts**, with three others offering a fusion preference of Obama for president and a Republican for Congress. Take away those 11 electoral votes from the Democrats' auto-refill of 55 electoral votes for winning the statewide vote and that's the same as giving the GOP ticket the equivalent of an Arizona, Indiana, or Tennessee.

Such an initiative, were it to make the ballot in November 2018, would raise the stakes in the next California election. Democrats would fight it to the death; out-of-state conservative activists might make it their mission.

And it just might make California a lot more relevant to the rest of the nation come the next presidential contest.

POLL ANALYSIS

Golden State Poll Studies California Voters in Unconventional Election

By Tammy M. Frisby

In an election year defined by breaks from tradition, the ballot before California voters next month fits right in. Beyond the historic and highly unusual presidential race, Californians will make their first general election choice between two Democrats for U.S. Senate. And among a fleet of propositions, the voters will be asked to legalize recreational marijuana and about a pair of initiatives that together give Californians the choice to repeal, reform, or keep as is the state's death penalty. In addition, voters will be asked to extend 2012's Prop 30 tax rate increases and to approve price controls for prescription drug purchases by state health agencies.

The most recent Golden State Poll set out to study the vote choices and opinions of Californians in this wild election season. The survey, administered by the survey research firm YouGov and designed in conjunction with Stanford University's Bill Lane Center for the American West, was conducted October 4–14th, 2016. The survey's sample is 1250 Californians who are likely voters in this November's general election. The margin of error is plus or minus 3.28 percent for the full weighted sample.

The full survey questioned voters on the presidential election, the U.S. Senate race, and five ballot propositions: extension of Prop 30 taxes, repeal of the death penalty, reform of the death penalty process, price controls on prescription drugs in state health care programs, and marijuana legalization. The full results, with data reported by demographic and political groups, and are available [here](#). Among our most notable findings:

Presidential Race

How poorly will Trump do in California? The October 2016 Golden State Poll has the Republican nominee winning only 30% of the state's vote and Hillary Clinton claiming 54%. For Republicans, that would be an even worse showing than the 1992 election, when Ross Perot siphoned off voters from George H. W. Bush and left him with just 33% of the vote. Since that Bill Clinton victory, Republican presidential nominees have managed between 37% and 44%, with the last two GOP nominees, Romney and McCain, both winning 37%. Trump would need to claim all the undecided voters (7%) in our survey to even hit that low watermark for California Republicans in the post-Reagan era. It is certainly bad news for Trump that only 75% of self-reported registered Republicans said they plan to vote for their party's nominee for president, compared to 87% of Democrats who intend to vote for Hillary Clinton.

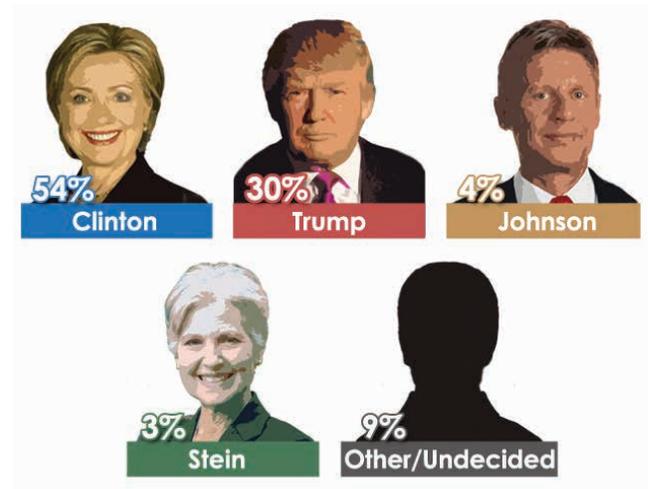
U.S. Senate Race

The Golden State Poll finds that State Attorney General Kamala Harris enters the last weeks of the campaign with a large double-digit lead over fellow Democrat and U.S. Congresswoman Loretta Sanchez, who represents Orange County. Among likely voters who expressed a preference between the two candidates, Harris gathered nearly twice the support (41%) received by Sanchez (22%).

Striking in this high-profile Senate race is the large number of voters (37%) who told us they remain unsure about their vote for Senator Barbara Boxer's successor. That uncertainty in the electorate is driven primarily by self-reported registered Republicans, 64% of whom said they were not sure about how they intended to vote in the U.S. Senate election. This figure is especially eye-catching when compared to the 41% of No Party Preference (NPP) voters and only 19% of Democratic voters who said they were still unsure at this point in the campaign.

Harris holds a large lead over Sanchez with both Democratic (57%–24%) and NPP (39%–21%) voters. But among Republicans who did express a candidate preference, Sanchez has a slight advantage over Harris (21% to 15%), which suggests that Sanchez's push to appeal to undecided conservative

CALIFORNIANS PREDICTABLY CHOOSE CLINTON OVER TRUMP



Source: *Hoover Institution October 2016 Golden State Poll*
 Note: See cross-tabs for questions & methodology explanation

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voters in this last stage of the campaign is, indeed, her best hope of pulling off a surprise victory. Sanchez began her political career as a Republican with an unsuccessful bid for city council in the L.A. suburb of Palos Verdes Estates, and now it seems that her shot at becoming the first Latina to serve in the U.S. Senate depends on persuading and mobilizing Republican voters while running as a Democrat. With much made of the trouble for down-ballot Republicans with Trump at the top of the ticket, Loretta Sanchez could have her own Trump problem if his candidacy depresses turnout among the Republicans whose votes she needs.

Assessing the Open Primary

That the "Trump Problem" is bipartisan in California is due, of course, to California's adoption of the open primary and this November Senate election involving two Democratic candidates as a result of the June election voting. Looking beyond this Election Day to the coming assessment of this first Senate race under the new system, open primary defenders will have some reckoning to do.

The promise of the open primary is supposed to be a November election that produces a winning candidate who more closely represents the policy preferences of the median voter in the general election electorate. A more competitive general election was supposed to replace November races that were forgone conclusions involving candidates who represent the more extreme opinions of primary voters.



But delivering on that promise depends on many voters making informed decisions based on real political and public policy preferences. Our survey data raises the concern that wide swaths of California voters in this U.S. Senate race might not be doing that. Pluralities—and even a large majority—of independent and out-party (Republican) voters have not settled on a candidate even after a long campaign and despite in-party (Democratic) voters largely doing so. If, when faced with two candidates of the same political party, independents and the out-party voters effectively toss a coin or cast their vote for the candidate with better name recognition, that undermines the case for the open primary reform.

Legal Pot and “Liberalitarianism”

PROP 64, the legalization and taxation of recreational marijuana, seems poised for acceptance, with 56% of likely voters planning to vote yes and 34% voting no according to our survey. Self-identified liberals have far and away the highest levels of support for legalization (80%), compared to 56% for moderates and only 29% among conservatives. Against stereotype, self-reported Sanders primary voters were not more likely than Clinton voters to support legal pot. 68% of Sanders primary voters support Prop 64 as do 68% of Clinton primary voters.

If Prop 64 passes, it will mark the tipping point of social change on the issue of legalized pot in California. Even 6 years ago, on the November 2010 ballot, Proposition 19 legalizing marijuana failed 46.5% to 53.5%. Although that result did show growing acceptance, with more support than the 33.5% who supported the 1972 legalization effort.

Death Penalty Initiatives “Underscore the Worst about California Politics”

It has been almost 11 years since a California death row prisoner was executed. Over that decade the number of inmates on death row in California has only continued to grow as the death penalty has effectively become a life sentence with a perpetual and costly appeals process. This November’s ballot offers Californians two chances to do something about a part of the criminal justice system widely seen as completely broken, with both death penalty opponents and supporters in agreement, though for different reasons. Proposition 62 would repeal the death penalty outright, while Proposition 66 would reform the appeals process with the objectives of saving the state money and actually carrying out the death penalty in at least some cases.

But Californians haven’t coalesced into a majority around either policy change, although pluralities seem to understand that something should be done. On Prop 62, death penalty repeal, likely voters were split, with 42% intending to vote yes on repeal, 43% voting no, and 15% still not sure of how they

CALIFORNIANS PLAN TO SHIFT POLICY LEFTWARD VIA THE BALLOT BOX IN 2016

	Yes	No
 Proposition 55	59%	29%
 Proposition 61	51%	24%
 Proposition 62	42%	43%
 Proposition 64	56%	34%
 Proposition 66	38%	24%

Source: Hoover Institution October 2016 Golden State Poll
 Note: See cross-tabs for questions & methodology explanation; Yes+No won't equal 100% because of "not sure"

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would cast their ballot. Based on these figures, Prop 62 seems likely to be defeated, as was Prop 34, the November 2012 ballot initiative to repeal the death penalty. Prop 34 failed 48%–52%.

On Prop 66, which would reform the death penalty system, 38% said they would vote yes, 24% no, and the remaining 38%—as many as said they would support the reform—responded that they remained unsure about their vote on the measure.

In an exchange about these findings with my colleague Bill Whalen, who provides guidance for the Golden State Poll rooted in decades as a participant in and observer of California politics, he keenly summed up the problem. “The death penalty initiatives underscore the worst about California politics. There is frustration with the death penalty in California, albeit that comes from different extremes. Yet we are headed for a result that will please no one.”

With neither opponents or supporters of the death penalty waging highly visible campaigns on either of these

propositions, it might be that activists overestimated the degree to which most voters have strong preferences on the death penalty one way or the other.

Prop 55: Continuity Amidst Change

In contrast to of the inability of death penalty activists on either side of the issue to build majorities for their favored propositions, our survey work on Prop 55 shows that Governor Jerry Brown and Prop 30 tax increase advocates have been successful in building support around Prop 55, which extends 2012's Prop 30's higher tax rates for an additional 12 years.

Back in 2012, Prop 30 passed 55%–45%. The most recent Golden State Poll measures support for Prop 55 and the extension of the Prop 30 tax rates as 59%. With another 13% of likely voters saying they were still not sure about their vote on Prop 55, this year's vote on the tax rates could see support in the low to mid 60's.

The success of campaign to tie Prop 30 and 55 to schools in the minds of voters is also reflected in how likely voters who support Prop 55 responded to our question about reasons they were in favor of the proposition. Among the five reasons presented, the top response, with 91% saying they strongly or somewhat agreed, was that K-12 schools and community colleges needed the money. This even came in ahead of the standard rationale that “The wealthy should pay more in taxes,” which was supported by 85%, or that “Ending Prop 30 might contribute to state budget deficits,” with 72%.

On the Cusp: Prop 61 Prescription Drug Price Controls

Among the five propositions we questioned voters about, the electoral fate of **PROP 61** has the greatest uncertainty. The measure, which would prohibit California state agencies from paying more for a prescription drug than the lowest price paid for the same drug by the U.S. Department of Veterans Affairs, received support from 51% of likely voters in our sample. That slim majority, combined with 25% of likely voters saying they were still not sure about how they would vote on the proposition, means that while the passage of Prop 61 seems likely, a narrow defeat should not be surprising.

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CALNOTES:

2016 PROPOSITION 64



Proposition 64 would legalize recreational marijuana use and establish the regulatory regime for cultivation, sale, and use of marijuana. Californians in 1996 approved Proposition 215, which made medical marijuana use legal. Since then, attempts to legalize marijuana for recreational use have failed. Proponents say this is an important criminal justice reform that will also yield substantial new revenues for the state. Opponents are concerned the measure is sloppily written and ties the hands of the Legislature with few opportunities to amend provisions found to be problematic once implemented.

CALNOTES:

2016 PROPOSITION 61



If approved, Proposition 61 would mandate State of California agencies purchasing prescription drugs to pay the same prices the US Department of Veterans Affairs pays for the same prescription drugs. Supporters of Proposition 61 claim this would fight price-gouging by the pharmaceutical companies, ensuring better access and saving taxpayers money. Opponents, however, note it's far likelier that prescription drugs just won't be made available, especially for the most disadvantaged and vulnerable, and those who can get prescription drugs will actually see their prices increase.



EUREKA

ABOUT THE PUBLICATION

Eureka was created to serve as an occasional discussion of the policy, political and economic issues confronting California. Like the Golden State motto from which this forum's title was borrowed, the goal here is one of discovery—identifying underlying problems and offering reasonable and common-sense reforms for America's great nation-state.

Ever since Archimedes supposedly first uttered the word, *eureka* has meant joy, satisfaction and a sense of accomplishment. Drawing on the combined wisdom of Hoover's policy experts and leading California thinkers, we hope that you'll find enlightenment in these pages. Hoover research fellow Bill Whalen, who has nearly two decades of experience in California politics and public policy, serves as this forum's editor.

For additional information and previous issues, visit www.hoover.org/eureka.

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