

IOWA TRANSPARENCY NEWSLETTER



Voting for More Transparency in Government

By Amy K. Frantz, Public Interest Institute Vice President

In this November's election, voters in 34 states considered 154 ballot measures according to Ballotpedia.org.¹ Those measures ranged in topic from legalizing marijuana, to raising the minimum wage, to various tax and financial decisions. A few of those ballot measures were designed to shine a bit more light on how state governments operate, including one measure in Idaho and two in California.



State Legislators in Idaho have the authority to review new regulations proposed by the various state agencies and are able to vote to veto any

regulations they do not agree with. Legislators can do this unilaterally, as they do not need the Governor's signature. The state statute providing Legislators this power was upheld in a 1990 Idaho Supreme Court decision on a 3-2 vote.

Since the 1990 decision, State Legislators in Idaho have "rejected 4.5 percent of rules created by state executive agencies."² Examples of regulations rejected include:

Last winter they nixed a proposal from the Idaho State Police requiring bars to sell at least 20 drinks a week to keep their liquor licenses. Legislative oversight last year also helped kill a rule from the Transportation Department mandating that auto dealers be open 20 hours a week. In 2013, lawmakers rejected regulations

from the Department of Administration to restrict public protests and events at the capitol and surrounding grounds.³

Supporters of giving this authority to State Legislators were concerned that a future Court decision could take away this power; thus they proposed adding this authority to Idaho's State Constitution. House Joint Resolution (HJR) 5, the Idaho Veto-Proof Legislative Oversight of Administrative Rules and Regulations Resolution, put this issue before voters in Idaho in November, and they approved adding it to the State Constitution with 347,253 "Yes" votes (55.53 percent) and 278,122 "No" votes (44.47 percent).⁴

Among the supporters of this Constitutional Amendment was Idaho Secretary of State Lawrence Denney, whose office provided the following argument in favor of HJR 5:

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The proposed constitutional amendment safeguards the ability of the legislature — elected by the people — to review and reject agency rules created by unelected state officials if those rules conflict with legislative intent. This will protect Idahoans from unfair or over regulation . . . A Governor's veto is not required, because agency rules are proposed by the Governor's departments and agencies.⁵

The citizens of Idaho voted to provide constitutional protection to the ability of their State Legislators to review regulations that are drafted by unelected state agency officials, thus ensuring that the regulatory process is reviewed by elected officials who are accountable to the voters of that state.

In California, Proposition 54, the Public Display of Legislative Bills Prior to Vote Initiative, was also successful, approved by 65 percent of that state's voters. The provisions of Prop 54 are:

- Prohibits Legislature from passing any bill unless it has been in print and published on the Internet for at least 72 hours before the vote, except in cases of public emergency.
- Requires the Legislature to make audiovisual recordings of all its proceedings, except closed session proceedings, and post them on the Internet.
- Authorizes any person to record legislative proceedings by audio or video means, except closed session proceedings.

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- Allows recordings of legislative proceedings to be used for any legitimate purpose, without payment of any fee to the State.⁶

Supporters of this measure to provide more transparency in California’s state government included the state’s League of Women Voters, the NAACP, the Republican Party, the Libertarian and Green Parties, and many taxpayers associations, business councils, and Chambers of Commerce around the state. Also supporting this initiative were many media outlets in the state that issued the following editorial statements in support of Proposition 54:

The Modesto Bee: This is necessary because of a gimmick called “gut and amend.” A legislator can write a bill about one subject, then empty its contents at the last minute and replace them with something else entirely. So a bill entitled “The Dog Food Safety Act” becomes something about bingo parlors or air quality. Worse, the process can take place in a matter of hours, with neither the public or other legislators having a chance to read the fine print before voting.⁷

Santa Cruz Sentinel: The changes would bring much needed

“transparency,” something essential to open government. Who could possibly be against that? Well, many legislators and lobbyists, who like the darkness of backroom deals and putting together legislation that would anger many taxpayers if they knew what it really contained.⁸

Another California measure, Proposition 53, the Voter Approval Requirement for Revenue Bonds above \$2 Billion Initiative, also known as the “Stop Blank Checks” Initiative, was narrowly defeated by voters, with 49.24 percent of voters in support and 50.76 percent against.⁹ Supporters of Proposition 53, such as Howard Jarvis Taxpayers Association, stated:

Over the last 20 years, \$50 billion in revenue bond debt have been issued without voter approval. A loophole in state law allows politicians to commit taxpayers to repaying enormous revenue bond debt without voter oversight. The result is careless project planning and massive cost overruns.¹⁰

Supporters of Proposition 53 raised about \$6 million, while opponents were able to raise just over \$20 million,¹¹ a disparity

that allowed those opposed to convince voters that politicians should continue to spend taxpayer money without getting voter approval first.



Idaho voters enshrined the ability for State Legislators to hold the line on state agency regulators in their Constitution. In California, citizens will be able to read the bills before they are voted on and will have more opportunity for exposure to what the State Legislature is doing. And with a vote that close, it is likely that supporters of Proposition 53 will try again to secure the rights of voters to approve the spending of billions of dollars.

This quote from the California newspaper *Monterey Herald* sums things up nicely:

Here are a few truths to hold onto in an election year: People should know what their government is doing. And that their government actually belongs to them. And that the best way to stay informed about what our government is doing is through public records and from public meetings.¹²

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Endnotes:

¹ “2016 Ballot Measures,” Ballotpedia.org <https://ballotpedia.org/2016_ballot_measures> accessed November 30, 2016.

² Ibid.

³ Wayne Hoffman, “The Regulatory State May Have Met Its Match in Idaho,” *The Wall Street Journal*, October 16, 2016 <<http://www.wsj.com/articles/the-regulatory-state-may-have-met-its-match-in-idaho-1476484819>> accessed October 17, 2016.

⁴ “2016 Ballot Measures.”

⁵ Ibid.

⁶ Ibid.

⁷ Ibid and “Finally transparency could be coming to the Capitol,” *The Modesto Bee*, May 27, 2016 <<http://www.modbee.com/opinion/editorials/article80217952.html>> accessed December 1, 2016.

⁸ “2016 Ballot Measures” and “Vote for transparency; yes on Prop. 54,” *Santa*

Cruz Sentinel, August 31, 2016 <<http://www.santacruzsentinel.com/article/NE/20160831/LOCAL1/160839913>> accessed December 1, 2016.

⁹ “2016 Ballot Measures.”

¹⁰ “Yes on Props. 53 and 54,” *Taxing Times*, Howard Jarvis Taxpayers Association, Vol. 42, Issue 3, Fall 2016, p. 1.

¹¹ “2016 Ballot Measures.”

¹² “Sunshine Week: Bring real transparency to state lawmaking,” *Monterey Herald*, March 16, 2016 <<http://www.montereyherald.com/opinion/20160316/editorial-march-17-2016-sunshine-week-bring-real-transparency-to-state-lawmaking>> accessed December 1, 2016.

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