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How to Fix California's Democracy Crisis

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ONE hundred years ago today, California voters added the [ballot initiative](#) to the State Constitution, allowing citizens to use petitions to bring proposed statutes and constitutional amendments for a public vote.

But as California, the nation's most populous state, marks this anniversary, the accumulated impact of direct democracy has made it virtually ungovernable. A two-thirds vote was required in each chamber of the Legislature to approve new taxes as a result of Proposition 13, the fabled tax initiative adopted in 1978. Ballot-box budgeting locks in large portions of the budget; Proposition 98, passed in 1988, dedicates about 40 percent of the state's general fund to public education.

The "three strikes" law (Proposition 184, passed in 1994) greatly increased the cost of the criminal justice system. Term limits (Proposition 140, adopted in 1990) have reduced the number of state legislators with significant experience. Finally, once a measure is passed by a vote of the people in California, it cannot be overturned by the Legislature, but only by another vote of the people (or by the courts).

Direct democracy in California was born in the hopes of bringing the people into the governance process, but it has led to a kind of audience democracy. Voters have become consumers of television sound-bite campaigns and new-media messaging, not authors of the laws they give to themselves. It was supposed to take the role of money out of politics but it has, instead, created a vast appetite for advertising. Getting on the ballot costs millions of dollars to pay for professional signature gatherers because the threshold of signatures required is so high (5 percent of the number of voters who turned out in the last election for statutes, and 8 percent for constitutional amendments). So instead of the process being open to everyone, it is open mostly to those organized interests that can pay the entrance fee.

But the cure for the ills of democracy can be more democracy. Ballot measures have been approved in an attempt to address partisan gridlock — the “top two” primary system (in which the top two primary vote-getters advance to the general election, even if they are from the same party) and redistricting with a citizens commission (both for the State Legislature and Congressional districts). The public has an appetite for major reforms. It understands the state is not working.

The public complains about the lack of transparency in initiatives, often wondering what interests are really financing a proposal or the opposition to it. It complains about the complexity of propositions, sometimes not being clear what a no vote or a yes vote really means. And it complains about the torrent of ads, often misleading, untrue or sensational. Lastly, voters complain about not really knowing what a proposal will cost and how it will be paid for.

My colleagues and I heard all of these concerns when we gathered a scientific sample of more than 400 of the state’s registered voters in Torrance over the weekend of June 24-26, to discuss the ballot initiative and other elements of California governance. Our project, known as [What’s Next California?](#), was the first statewide deliberative poll — a poll that gathers a scientific sample of respondents to answer questions both before and after they have had a chance to deliberate competing arguments and trade-offs. It provides a window on what voters think of direct democracy and what changes they would, and would not, support. Despite the evident problems, California voters have more confidence in the ballot initiative than they do in other elements of their state government. After spending a weekend immersing themselves in the issues and questioning competing experts about possible reforms, 65 percent of the sample expressed disappointment with California’s state government in general and 70 percent expressed disappointment in the Legislature, but only 37 percent were disappointed in the ballot initiative.

They do think the system needs reform, but in many cases not the reforms championed by policy elites. The popularity of proposals to involve the Legislature in the initiative process sank once voters in our poll discussed their implications. After deliberating, they did not want the Legislature to be able to place a counter-measure on the ballot or to amend an initiative that has passed, or even to remove an initiative from the ballot by enacting it into law. They held the Legislature in low regard (at an approval rate of only 14 percent). They viewed the ballot initiative as “the people’s process,” and they wanted the Legislature to keep its hands off it.

There was, however, strong support for requiring the names of the top five contributors for and against a measure to be published in the ballot pamphlet and for requiring ballot measures with new expenditures to indicate how they will be paid for. And there was majority support for lowering the threshold voting requirement in the Legislature for new taxes from two-thirds to 55 percent — a surprising willingness to reconsider the best-known aspect of Proposition 13. Regardless of party, the people wanted transparency and accountability and they wanted government to be able to make decisions.

These are reforms that people support once they really think through their implications. A real reform of the initiative process would let the people's considered judgments — after a process of deliberation, and not just yes or no — set the agenda, not influential special interests that have the money to collect the petitions. Something like this happened in the first democracy, in ancient Athens, where a deliberating microcosm chosen by lot, the Council of 500, set the agenda for the votes by everyone in the assembly. If the ballot initiative process is to survive for another century, it must take into account the considered judgments of voters coming together to deliberate hard choices and not just cast a vote based on sound bites. If this succeeds it will help bring California much closer to the ideal that voters were striving for 100 years ago: legislation genuinely initiated by the people.

James S. Fishkin, a professor of communication and the director of the Center for Deliberative Democracy at Stanford University, is the author of "When the People Speak."

This article has been revised to reflect the following correction:

Correction: October 11, 2011

An earlier version of this article contained an outdated reference to California's budget process. Under Proposition 13, a tax initiative adopted in 1978, a two-thirds vote was required in each chamber of the Legislature to approve new taxes and the state budget. However, a separate initiative, Proposition 25, adopted last year, replaced the two-thirds requirement for budget approval with a simple majority requirement.