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The Initiative: Past, Present, and Future

The Local Experience

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- I. The Past: How Did We Get Here?
 - A. The Constitution: See Articles IV, § 1, and II, §§ 8, 9.
 - B. Legislative Authority
 - 1. City/County Sponsored Measures: See Elections Code §9222.
 - 2. Advisory Measures: See Elections Code §9603(c).
 - C. Historical Use of Local Initiatives
 - 1. The Early Cases: See *Hurst v. City of Burlingame*, 207 Cal. 134 (1929).
 - 2. Land Use Initiatives Authorized in 1974: See *Associated Home Builders of the Greater Eastbay, Inc. v. City of Livermore*, 18 Cal.3d 582 (1974).
- II. The Present: Current Trends in Local Land Use Initiatives
 - A. The Number and Types of Measures
 - B. The Reasons for the Measures
 - C. Recent Developments in the Law
 - 1. Be Wary of Initiative Measures “Implementing” Prior Initiatives
 - *Citizens for Jobs and the Economy v. County of Orange*, 94 Cal. App. 4th 1311, petition for review pending (2002). Measure requiring voter ratification of any County action to approve or facilitate development of any jail, hazardous waste landfill, or civilian airport invalidated as (1) interfering with essential governmental functions, (2) being administrative rather than legislative in nature, and (3) being void for vagueness.

- *City of San Diego v. Dunkl* (2001) (103 Cal. Rptr. 2d 269). Measure purporting to change the manner in which a prior initiative was to be implemented is an administrative act beyond the power of the voters to enact.
2. Prezoning is Subject to Referendum
 - *Merritt v. City of Pleasanton* (2001) (89 Cal. App.4th 1032). Referendum prohibiting enactment of a prezoning ordinance for land outside the City does not create inconsistency with General Plan and did not unfairly discriminate against the property.
 3. Administering the Initiative Process Gets Easier, and More Complex
 - *Songstad v. Superior Court* (2001) (93 Cal. App. 4th 1202). Initiative opponent lacks standing to challenge the pre-qualification initiative title and summary prepared by County Counsel. Only initiative proponents may challenge the title and summary prepared by County Counsel. (Or, presumably, the City Attorney. See Elections Code § 9203.)
 - *SB 904 (Stats. 2001, Chapter 105)*. Amends Elections Code to provide that petition circulators must be eligible to be registered voters of the City rather than be voters of the City. Responds to *Buckley v. American Constitutional Law Foundation, Inc.* 525 U.S. 182 (1999) which overturned a Colorado statute requiring petition circulators to be registered voters. But see *Lerman v. Board of Elections*, 232 F.3d 135, 145-153 (2nd Cir. 2000), cert. denied, 150 L. Ed. 2d 692, 121 S. Ct. 2520 (2001) (state requirement that witnesses to designating petitions be residents of the political subdivision of the state in which the office is to be voted for is unconstitutional on its face); *KZPZ Broadcasting, Inc. v. Black Canyon City Concerned Citizens*, 199 Ariz. 30, 13 P.3d 772, 778-80 (2000) (a local residency requirement for county referendum petition circulators could not withstand strict scrutiny and would be unconstitutional).

III. The Future: Where Might We Go from Here?

- A. The Recommendations of the Speaker's Commission
 1. The Indirect Initiative Process
 2. Disclosure, Campaign and Election Issues
 3. The Single Subject Rule

B. Alternatives to Traditional Initiatives

1. Increased Public Engagement
2. Cooperative Initiatives
3. City-initiated Long Term Planning

C. The Role of the City Attorney

Attachments


Excerpts from “PPIC Statewide Survey November 2001: Special Survey on Land Use,” Mark Baldassare, Public Policy Institute of California (2001). Full report available at <http://www.ppic.org/publications/surveylist.html>

Table of Contents for “Ballot Box Planning: Understanding Land Use Initiatives in California,” Institute for Local Self Government, 2001

For Further Reading

Local Land Use Initiatives and Referendums, Chapter 75, California Environmental Law and Land Use Practice (Mathew Bender).

“California Planning and Development Report,” published monthly with articles concerning a wide range of land use issues including initiatives and planning trends.



**STATEWIDE
SURVEY**
SEPTEMBER 2001

Special Survey on Land Use
part of the Growth, Land Use, and Environment Series

in collaboration with

The William and Flora Hewlett Foundation

The James Irvine Foundation

The David and Lucile Packard Foundation

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Mark Baldassare

Senior Fellow & Survey Director

**Public
Policy
Institute of
California**

Press Release

ECONOMY, SECURITY RAISE FEARS BUT FAIL TO DAMPEN OUTLOOK **Many Californians Worried About Their Safety; Despite Weak Economy,** **Strong Support for Local Slow Growth Measures and State Bonds**

SAN FRANCISCO, California, November 13, 2001 — The rapidly slowing economy and a growing sense of concern about personal safety have reshuffled the priorities of many Californians, according to a new survey released today by the Public Policy Institute of California (PPIC) and The William and Flora Hewlett Foundation. However, residents refuse to let today's uncertain climate dampen their overall outlook. In fact, Californians are more positive in the wake of the 9/11 tragedy about the state's prospects than they were just three months ago.

Today, Californians rate the economy as the most important issue facing the state (18%), followed by terrorism and security issues (14%), the electricity crisis (13%), and education (12%). In contrast, only 5 percent of residents in July rated the economy as the most pressing problem, while 56 percent named electricity and 9 percent education. Fifty-nine percent of residents now say they expect the state to face bad times financially in the next year, up from 50 percent in July and 38 percent in January. And while Californians appear less concerned than the nation as a whole about security issues, four in 10 residents also say that the recent terrorist attacks on America have shaken their personal sense of safety and security a great deal (15%) or fair amount (27%).

Despite their worries, Californians are much more likely to have a positive outlook overall about the state than they did just three months ago: 60 percent of residents now say that the state is headed in the right direction — similar to survey responses during the strongest years of economic growth — compared to 44 percent in July. “Californians are facing some profound new concerns at the moment, but these circumstances do not appear to have fundamentally shaken their confidence,” says PPIC Statewide Survey Director Mark Baldassare. “If anything, confidence in government — both at the state and national levels — has been strengthened.”

Indeed, support for Governor Gray Davis has increased substantially: 54 percent of Californians say they approve of the way he is handling his job, compared to 44 percent in July. Davis receives even higher marks for his handling of terrorism and security issues in the state: 62 percent of state residents approve, including 51 percent of Republicans. While Davis has received a bump since July, President George W. Bush's ratings have soared: 80 percent of Californians say they approve of his performance as president, compared to 47 percent three months ago. And 83 percent of residents say they approve of the way Bush is handling the issue of terrorism, including 77 percent of Democrats.

Have Terrorism, Economic Woes Changed Attitudes About Public Spaces, Land Use?

The majority of Californians say that recent terrorist attacks have not made them worry about their safety in urban settings and public places, including high rise buildings (51%), downtown areas of large cities (53%), mass transit (55%), and suburban stores and malls (68%). However, four in ten residents do say they have some concerns about being in such places, and nearly one in five say they now worry “a lot” about their safety in high rise buildings (22%), large downtown centers (19%), and on mass transit (18%).

The state's weak economy does not appear to have dampened interest in larger growth and land use issues. Fifty-five percent of residents say they would vote for a local initiative that would slow the pace of development in their community, even if it meant less economic growth — similar to survey responses in

more prosperous times. Most Californians also say they will be thinking about growth and land use issues when they cast their ballots in 2002. Eighty-nine percent say that candidates' positions on these issues are "very" (40%) or "somewhat" (49%) important in statewide races, and 91 percent say growth and land use issues are important when it comes to local races.

Californians are also inclined to support a March 2002 proposition that would provide state bond funds for open space, parks, and other land use projects. Seventy-four percent say they would vote yes on this \$2.6 billion state bond measure. Two in three say they support another March 2002 proposition that would dedicate the state's gasoline sales tax to transportation projects.

"Californians are clearly thinking about the consequences of growth and land use decisions for their quality of life," says Paul Brest, President of The William and Flora Hewlett Foundation. "The key is to create more opportunities for participation in the decisionmaking process, especially at the local level." Today, many Californians say they know little (34%) or nothing (13%) about the approval process for local growth and land use decisions in their community.

Other Key Findings on Land Use, Growth

- **Coastal Concerns** (page 11)

Nearly four in 10 residents see growth and development along the California coast as a "big" problem, and three in 10 (32%) see it as somewhat of a problem.

- **Water: Farmland First** (page 13)

Forty-two percent of Californians say that maintaining the water supply for farms and agriculture should be the most important priority for future water planning, while fewer cite protecting wildlife habitats and natural areas (31%) and providing water for new homes and development (20%).

- **Open Space, Closed Wallets** (page 16)

While they favor using taxpayer money to buy undeveloped land to keep it free from commercial and residential development (55%), residents oppose paying higher local taxes to do so (56%).

About the Survey

The survey on land use is a special edition of the PPIC Statewide Survey. It is the second in a four-year, multisurvey series on growth, land use, and the environment being produced in collaboration with The William and Flora Hewlett Foundation, The James Irvine Foundation, and The David and Lucile Packard Foundation. The purpose of this series is to inform policymakers, encourage discussion, and raise public awareness about the critical growth, development, and environmental challenges facing the state. Findings of the current survey are based on a telephone survey of 2,002 California adult residents interviewed from October 22 to October 31, 2001. Interviews were conducted in English or Spanish. The sampling error for the total sample is +/- 2%. For more information on survey methodology, see page 23.

Dr. Mark Baldassare is a senior fellow and program director at PPIC, where he holds the Arjay and Frances Miller Chair in Public Policy. He is founder and director of the PPIC Statewide Survey, which he has conducted since 1998. Dr. Baldassare is the author of numerous books, including *California in the New Millennium: The Changing Social and Political Landscape* (University of California Press, 2000).

PPIC is a private, nonprofit organization dedicated to objective, nonpartisan research on economic, social, and political issues that affect Californians. The Institute was established in 1994 with an endowment from William R. Hewlett. This report will appear on PPIC's website (www.ppic.org) on November 13.

Local Governance

Although most Californians are satisfied with their current residences, fewer trust their city government to do what is right on land use and growth issues. More than a majority of residents would like to set limits on local development in their communities.

Overall, about half of Californians trust their city government's judgment on land use and growth issues. However, San Francisco Bay area residents are more likely than others to express little or no trust in their city governments on land use issues. They are also the most likely to support a local initiative that would slow down the pace of growth. Central Valley residents are the least likely to favor a slow-growth initiative that could slow down the economy.

There are no differences in ratings of distrust across community types, between homeowners and renters, between Latinos and non-Hispanic whites, or across age, education, and income groups. Among the voting groups, independent voters (44%) are less likely than Democrats (51%) and Republicans (53%) to trust their city governments on land use issues always or most of the time. Support for slow-growth initiatives is similar across various groups, except that it rises with income.

Given the weak confidence in city government, one might assume that many Californians would support a local initiative to slow down the pace of development. What is surprising is that the level of support stands at 55 percent, at a time when the economy is weakening, even when people are reminded that this proposal may result in slower economic growth. This is higher than May 2001 (51%) and nearly the same as June 2000 (58%) – despite the fact that economic confidence is at a lower point today than earlier.

"How often do you trust your city government to do what is right when it comes to the local land use and growth issues facing your city or community?"

	All Adults	Region				Latino
		Central Valley	SF Bay Area	Los Angeles	Other Southern California	
Always	8%	10%	7%	10%	6%	12%
Most of the time	42	42	38	43	45	42
Only sometimes	36	34	41	35	35	34
Never	10	11	9	9	10	9
Don't live in a city (<i>volunteered</i>)	1	2	1	0	1	0
Don't know	3	1	4	3	3	3

"If an election were held today, would you vote yes or no on a local initiative that would slow down the pace of development in your city or community, even if this meant having less economic growth?"

	All Adults	Region				Latino
		Central Valley	SF Bay Area	Los Angeles	Other Southern California	
Yes	55%	49%	60%	53%	57%	53%
No	38	45	34	40	38	40
Don't know	7	6	6	7	5	7

Knowledge and Involvement

Californians are quite willing to express opinions about how their cities handle growth and to vote on development initiatives, but, evidently, this willingness is not based on substantial knowledge or a great deal of experience.

Almost half of residents say they know "very little" or "nothing" about the approval process for local growth and land use decisions. Even among voters, four in 10 say they know little or nothing about how these decisions are made. Latinos (60%) are more likely than non-Hispanic whites (42%) to have little or no knowledge about these matters. The larger the community size, the less people know about how decisions are made. Only one in eight residents say they have "a lot" of knowledge of the local process. The percentage of Californians who indicate knowledge of the approval process increases with age, education, income, homeownership, and length of residence in the community. Those who know the most about the process and those who know the least about the process are the most distrustful of their city's handling of this issue. There is little variation across regions.

Only one in three residents has been personally involved in local land use and growth decisions. Four in 10 residents have no experience in this domain. Again, there are no differences across regions. The overwhelming majority of voters say they have had little or no direct experience. Latinos (50%) are more likely than non-Hispanic whites (36%) to be inexperienced. The percentage of residents indicating involvement increases with age, education, income, homeownership, and years at residence. Those with the most involvement in the process are more distrustful of government.

"How much do you know about the approval process for local growth and land use decisions in your city or community?"

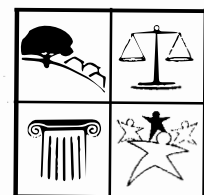
	All Adults	Region				Latino
		Central Valley	SF Bay Area	Los Angeles	Other Southern California	
A lot	13%	14%	13%	12%	11%	9%
Only some	39	41	43	34	38	30
Very little	34	32	31	37	35	42
Nothing	13	13	11	16	15	18
Don't know	1	0	2	1	1	1

"How often have you been personally involved in local land use and growth decisions in your city or community – such as attending meetings, signing petitions, or writing letters to officials?"

	All Adults	Region				Latino
		Central Valley	SF Bay Area	Los Angeles	Other Southern California	
A lot	6%	6%	7%	5%	6%	3%
Sometimes	29	31	29	28	29	23
Hardly ever	25	23	27	25	25	24
Never	40	40	37	42	40	50

Ballot Box Planning:

Understanding Land Use Initiatives in California



INSTITUTE for LOCAL
SELF GOVERNMENT

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