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DROPOFF ON LOCAL BALLOT MEASURE OUTCOMES

AND

THE INITIATIVE AND CALIFORNIA'S SLOW GROWTH
MOVEMENT

by

David Hadwiger

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LOCAL BALLOT MEASURE OUTCOMES

and

THE INITIATIVE AND CALIFORNIA'S SLOW GROWTH MOVEMENT*

AUTHOR'S NOTE:

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*Reprinted from Western Cities, October 1989.

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THE INITIATIVE COMES TO TOWN:

California Cities and Citizen-Sponsored Ballot Measures *

by David Hadwiger

"Successful and permanent government must rest primarily on recognition of the rights of men and the absolute sovereignty of the people."

Governor Hiram Johnson, 1911 Inauguration

What kinds of citizen-sponsored ballot measures are finding their way into city elections? Which measures win and which lose? Do voter turnout and campaign spending affect measure success? How often are ballot measures litigated? Which strategies have city councils developed to respond to ballot petitions?

Political reformers at the turn of the century faced a different set of questions. They were confronted by the monolithic power of the Southern Pacific Railroad within the state political system. Cities adopted the initiative and referendum before the state government to provide new channels of citizen influence over public decisions. Hiram Johnson campaigned for California Governor in 1910 as a Republican on a Progressive platform of political reform. Upon his election, he led the effort to enact initiative, referendum, and recall, among other Progressive reforms at the state level.

Johnson's successful reforms in 1911 offer challenges to modern political reformers. The expanded role of the media, the emergence of PACs, the development of targeted direct mail campaigns, and the involvement of the courts in determining the outcomes of propositions have raised new doubts about the "democraticness" of direct democracy. This article focusses on the operation of the initiative and referendum on the local level.

Why Study Cities?

Studies of direct democracy to date have focussed primarily on statewide measures in California and elsewhere. No general systematic effort has been made to study initiative and referendum use in cities.

*Reprinted from Western Cities, October 1989.

In fact, local ballot measure campaigns have several unique characteristics. Local measures may qualify with relatively few signatures. Measures may win or lose with neither side waging an active campaign. The topics of local ballot measures differ from statewide ballot measures and often have a greater immediacy to members of the community. Moreover, local measures may be seen as precursors to statewide efforts (a prospect currently discussed among slow-growth advocates and opponents).

The impact of local ballot measures on their communities is unmistakable. Local propositions have overhauled city development plans, set wage levels for city employees, established mechanisms to control rents, opposed the government of South Africa, and declared nuclear-free zones. They have catapulted some citizens into public office and led to the defeat of incumbents. Cumulatively, they have generated millions of dollars of campaign spending and have cost millions more in adjudication and election administration.

In 1988, the League of California Cities and the Institute of Governmental Studies at the University of California - Berkeley (LCC/IGS) undertook a broad investigation of California cities' experience with local citizen-sponsored ballot measures.¹ A questionnaire was designed and mailed to California cities to identify patterns of experiences. The results presented here are based on responses from 276 cities about citizen-sponsored propositions between 1983 - 1988.

What Qualifies for the Ballot and What Wins?

The 276 California cities (not including San Francisco) which responded to the LCC/IGS survey reported that 159 petitions qualified for the ballot during the period from 1983 through 1988; 118 were initiatives and 41 were referendums.² Most local measures concerned issues within the jurisdiction of city governments: community development (46 percent), rent control

1) Hereafter, the words "measures," "initiative," and "referendum" will be used to denote citizen-sponsored measures, although statutes use these terms more generally. Initiatives are propositions which are submitted to the city council for enactment or inclusion on the ballot by means of a legally-prescribed citizen petition process. Referendums are citizen-sponsored efforts to repeal an action of the city council.

2) Of the total 159 measures which were certified as having sufficient signatures to qualify for election, only 133 were placed on the ballot. The other measures were adopted by the city councils (10), kept off the ballot through court intervention (7), or lacked election results in survey responses (9). The data presented in the tables below will not always sum to 133, due to unavailability of data for some measures.

(16 percent), environmental measures (7 percent), public property acquisition/disposition (7 percent), and local election reform (7 percent). A handful of measures addressed issues of national and international policy: to divest in South Africa, to call on the U.S. government to reduce aid to Israel to discourage West Bank settlements, or to reduce national military spending in favor of increasing funding for jobs and education.

Referendums usually coincide with local elections or are the subject of special elections (78 percent). Initiatives are less likely to be subjects of special elections, because more signatures are required to qualify an initiative for a special election. Most initiatives coincide with statewide elections (54 percent).

Overall, both initiatives and referendums win about half the time. Whereas referendums are successful about 50 percent of the time regardless of the type of election, initiatives are more successful (61 percent) in local-only elections than when they coincide with statewide elections (39 percent).

TABLE 1

Success Rates of Referendums/Initiatives by Type of Election
as percent of total measures (no. of measures)

	Ballot Election Coincided With:	
	<u>City/Special Elec.</u>	<u>Statewide Election</u>
Referendums	52% (11/21)	50% (3/6)
Initiatives	61 (30/49)	39 (22/57)

The higher rate of initiative success in local elections than in statewide elections occurs overwhelmingly among measures dealing with community development and rent control. Community development measures are generally successful in local-only elections (60 percent), but win much less frequently during statewide elections (35 percent). Similarly, rent control measures are more successful in local-only elections (50 percent), but much weaker during statewide elections (13 percent).

The disparity in success between initiatives occurring in local-only elections and those which coincide with statewide elections is likely attributable to differences in the electorate in the two types of elections. The turnout in local-only elections is lower than in presidential and gubernatorial elections. Academic research has generally held that lower turnout translates into a qualitatively different electorate. On the basis of experience in elections, generally, voters in low-turnout races tend to be better-educated and more politically

active than in high-turnout elections. This difference might be sufficient to swing the outcomes of some initiatives.

Do Voter Turnout and Dropoff Affect Measure Success?

"The opponents of direct legislation and the recall...in reality believe the people can not be trusted. On the other hand, those of us who espouse these measures do so because of our deep-rooted belief in popular government...if the people have the right, the ability, and the intelligence to elect, they have as well the right, ability and intelligence to reject or recall."

Governor Hiram Johnson

When election turnout is low, it is likely that those who voted would be those who cared the most. And who cares the most but those who proposed the measure? Supporters have already organized to draft the measure and pass petitions and generally remain an organized force during the campaign. It seems likely that the solidarity of this block of votes, in a low-turnout election, may be sufficient to ensure the measure's success.

In fact, there is a weak relationship between voter turnout (here measured as percentage of registered voters going to the polls) and initiative election outcome. Initiative measures win slightly more often at lower levels of turnout than at higher levels. Notably, low-turnout elections in Table 2 generally correspond with local and special elections. High-turnout elections generally correspond with statewide elections.

TABLE 2

Turnout, Type of Measure and Election Outcome

Election Outcome in Percent (no. of measures)

		<u>Referendums</u>		<u>Initiatives</u>	
		Win	Lose	Win	Lose
T u r n o u t	Low (<35%)	50% (6)	50% (6)	70% (16)	30% (7)
	Moderate (35 - 55%)	50 (4)	50 (4)	50 (26)	50 (26)
	High (>55%)	33 (1)	67 (2)	34 (10)	66 (19)

This relationship, however, is not statistically significant. In short, measures do lose with low turnout and frequently win with high turnout.

DROPOFF AND ELECTORAL OUTCOME

The elusiveness of the relationship between turnout and outcome is matched by the absence of a relationship between dropoff and outcome. Dropoff refers to voters who vote in high-profile races (e.g. for President, Governor, Senator), but do not vote for each office or proposition. Table 3 indicates no clear relationship between dropoff and election outcome.

TABLE 3

Dropoff, Type of Measure and Election Outcome

Election Outcome in Percent (no. of measures)

		<u>Referendums</u>		<u>Initiatives</u>	
		Win	Lose	Win	Lose
D r o p o f f	None (0%)	60% (3)	40% (2)	67% (6)	33% (3)
	Low (0.01 - 5%)	50 (8)	50 (8)	48 (16)	52 (17)
	Moderate (5 - 10%)	50 (2)	50 (2)	50 (15)	50 (15)
	High (>10%)	100 (1)	0 (0)	44 (14)	56 (18)

Dropoff in Table 3 is a measure of the people who did not vote on a given proposition, as a percentage of the total number who voted in the election in that city. One might expect that those who choose not to vote on a particular measure would be the most apathetic, increasing the influence of staunch supporters on the electoral outcome. The data do not support that conclusion. No pattern is evident between levels of dropoff and measure success.

Campaign Spending and Electoral Success

"In some form or other nearly every governmental problem... has arisen, because some private interest has intervened or has sought for its own gain to exploit either the resources or the politics of the State. I take it, therefore, that the first duty that is mine to perform is to eliminate every private interest from the government."

Governor Hiram Johnson

"In the last poll we did..., we found that the best message that opponents [of the Orange County slow-growth measure] could give was that the measure would not improve traffic. That was the message that people heard during the month and they came to believe it because they did not hear any message to the contrary."

Pollster Mark Baldassare³

Contrary to the intent of their creators, the initiative and referendum have been criticized for failing to insulate politics from the influence of special interests. Rather, it is argued, direct democracy has given special interests a new access point to the policy process. Opponents of direct democracy contend that the ballot has taken the place of the legislature as the policy making arena, and that interests now spend millions on wooing voter support directly which once they spent on council candidates.

The LCC/IGS survey finds a clear relationship between campaign spending and measure success. Supporters of successful measures usually have larger campaign war chests than their opponents. Defeated measures are often victims of big spending by measure opponents. Table 4 shows patterns of spending and their relationship with ballot election outcomes.

Of course, big spending does not always win, nor does the side which spends the most always benefit from that spending. There is at least anecdotal evidence which suggests that big-spending campaigns may experience a voter backlash. A Los Angeles Times article in 1987 described a South Pasadena measure to restrict building height and a Claremont measure over an apartment complex as instances where developers lost because they were "too 'slick' in their presentation."⁴ Similarly, a slow-growth proponent in Walnut Creek felt their measure benefitted when their opponents distributed expensive, glossy brochures.

³) Los Angeles Times. June 9, 1988. Part I, pp. 1.

⁴) Edmund Newton, Los Angeles Times, September 27, 1987.

TABLE 4

Relationship of Campaign Spending to Measure Outcome

Election Outcome in Percent (no. of measures)

	<u>Measure Won</u>	<u>Measure Lost</u>
Spending Against Measure Only	13% (1)	88% (7)
Opponents Outspent the Proponents 2-1 or more	39 (14)	61 (22)
Neither side outspent the other more than 2-1	75 (9)	25 (3)
Proponents Outspent the opponents 2-1 or more	62.5 (15)	37.5 (9)
Spending in Favor of Measure only	75 (12)	25 (4)

The relationship between spending and outcome could also be interpreted as the product of a third variable--voter support. Strong voter support for a local measure can translate into both easier fundraising and a positive outcome.

Ballot Measures in Court

The initiative and referendum, as they operate today, have been critized as undemocratic, because the final outcome--even the implementation--of measures is frequently determined through court litigation. The judiciary may be said to be the least politically accountable of the three branches of California government, because judicial elections are infrequent and trial court judges generally run unopposed.

Thirty of the 159 measures (roughly one-fifth) which qualified for the ballot in the 1983 - 1988 period were challenged in court. Additionally, the courts were involved in ten of 83 measures which were reported in the LCC/IGS survey as not qualifying for the ballot. Roughly three-quarters of the total number of challenges occurred prior to the election. Pre-election challenges focussed mostly on legality of the measure (57 percent); 43 percent concerned the election process. Post-election challenges dealt only with the legality of the measures.

State Election Code Section 5025 makes specific provision for obtaining a writ of mandate when it is felt that the ballot pamphlet contains false or misleading information or that it was

not prepared according to state code specifications. Twenty-eight percent of the court challenges involved this election code provision. For example, the judge in one San Francisco case gave the Registrar of Voters permission to remove ballot arguments discussing opponents' divorces and use of political thugs, on the grounds that these were "scurrilous personal attacks."⁵

Ballot measures have had poor success in court. In the 1983 - 1988 period, over half were overturned in part or in whole in court. Measures were fully upheld in only 23 percent of the challenges during that time. (Roughly one-fourth of the measures were still in litigation at the time of the survey.)

Court challenges are generally resolved in Superior Court (69 percent). Fifteen percent were decided in the State Court of Appeals; eight percent made it to the California Supreme Court. Eight percent were resolved out of court.

Council Strategies for Responding to Ballot Measures

Ballot measures are drafted by citizens to address either a policy area in which officials have not acted or to repeal a city action. California law allows the city council two choices in response to a qualified petition: to adopt the ordinance without alteration or to submit the ordinance to a vote of the voters of the city.⁶ The LCC/IGS study identified ten measures where councils repealed a referendum ordinance or adopted an initiative ordinance prior to election. In addition, city councils have discovered several creative strategies for coping with citizen-sponsored ballot measures.

Propose an alternative measure. Often the general subject of the proposition has strong support (as in the case of measures to reduce traffic congestion), but elected officials see the proposed measure as radical, expensive, ineffective, etc. A possible response is to submit an alternative measure. Councils have placed successful alternative measures on the ballot in Simi Valley (growth control), Santa Ana (election by ward and direct election of the mayor), and San Luis Obispo (mobile home rent control). Council-sponsored alternatives were unsuccessful in Oceanside (residential development control), Riverside (growth control), and Tiburon (growth control). Councils may take the lead in drafting and campaigning for the alternative, as they did in Riverside.⁷ Or they may limit their involvement to voting to

⁵) San Francisco Chronicle. April 10, 1987. pp.34

⁶) California Elections Code 1989. Sections 4010, 4011, and 4055.

⁷) The Press-Enterprise (Riverside). November 4, 1987, p. B-1, B-4.

place an alternative measure on the ballot, leaving opponents of the citizen-sponsored measure to draft and campaign for the alternative proposition. For example, mobile home park owners and landlords in San Luis Obispo responded to a citizen-petitioned measure on mobile home rent control by drafting and campaigning for their own measure. According to press reports, the city council placed the alternative measure on the ballot, but maintained a low profile in the campaign.⁸

Adopt a compromise ordinance before petitions are circulated. This is a middle path between adopting a petition measure and proposing a council-sponsored alternative proposition. Such measures may be drafted in consultation with petition supporters.

Adopt a compromise ordinance during the campaign. The Concord city council adopted a moderate growth-control ordinance which onlookers saw as instrumental in thwarting a slow-growth initiative campaign in 1986. An opponent of the Concord measure interpreted the outcome there as an expression of public "confidence in the city council."⁹

Dig in and slug it out. Councils may opt to confront ballot measures directly by signing ballot arguments against them and participating actively in the opposition campaigns. These have often been highly controversial efforts. Councilmembers who backed the losing side of a ballot proposition may be rejected (or choose not to run) in the following election. On the other hand, it is a unique opportunity for an official to demonstrate leadership. The Burbank city council squared off against proponents of a ballot measure to create district elections, signing the ballot pamphlet argument against the measure and campaigning against it. They succeeded in defeating the district plan, but the result was mixed as one proponent of the measure gained visibility through the campaign and became the Burbank mayor.

Conclusion

The debate continues today about the value of Hiram Johnson's turn-of-the-century political mechanisms in the era of campaign consultants, mass media, professional signature gatherers, and targeted direct mail. The LCC/IGS study has shed some light on how initiatives and referendums are used in California cities. It has been demonstrated that, in propositions on California city ballots, spending had a clear influence, voter turnout a weak influence on measure success. We have explored

⁸) San Luis Obispo County Telegram-Tribune. June 7, 1988. p. A-3.

⁹) Oakland Tribune. March 4, 1986. p. 1

the role of the courts in determining measure outcomes, as well as strategies for city council responses to a petition.

There is much yet to be studied about local initiatives. Further research would be valuable on demographic and ideological composition of the electorate in general, primary, local, and special elections. Current available information offers little insight into the effect of turnout on the outcome of particular measures.

Also, almost nothing is known about voters' comprehension of the local measures on which they vote. State-level data indicate that voters often have a difficult time understanding the broad issues addressed in complicated initiative language. It is likely that the public's understanding of local measure content would be similarly problematic.

Finally, the research to date should be expanded and continued in order to map changes in the use of the initiative process at the city and county level. This would aid in the accumulation of data of all sorts on the use of local initiatives and referendums. For example, it has been argued elsewhere that the last decade has seen a surge of community development measures. Such a claim is difficult to support or disprove, when no centralized record of local ballot measure subjects and outcomes exists in California. All efforts to gauge statewide ballot trends are similarly hampered due to the lack of a central repository for this information.

~~TR: Vicki Clark~~
~~Western City Magazine~~



THE INITIATIVE AND CALIFORNIA'S SLOW GROWTH MOVEMENT *

David Hadwiger
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"Statewide, 75 land-use measures appeared on local ballots [in November 1988]...Thirty-two of the measures were slow-growth proposals and fifteen of the 32 passed..."

Los Angeles Times November 10, 1988

"Between 1971 and last June, the slow-growth movement had gathered momentum by putting more than 200 measures on local ballots and winning 3 out of every 4."

San Francisco Examiner November 9, 1988

Statistics such as those above herald the extensive role of the initiative in identifying, shaping, and giving momentum to the slow-growth movement. A few high-profile campaigns have placed the issues of growth management squarely (or sometimes not so squarely) in the public eye. But the reputation of the initiative as the leading tool of growth reform may not be entirely earned. Little effort has been given to distinguishing citizen-sponsored growth-control measures from others dealing with local planning and the environment.

Too often, in presenting information on growth-control initiative elections, newspapers and journals have printed aggregate numbers of measures with little effort to distinguish citizen- from council-sponsored measures, pro-growth from anti-growth measures, issues relating to the general topic of

(X)

growth-control from those arguing the merits of different plans to develop a single project, and measures which propose to control growth broadly within a jurisdiction from those which seek to prevent a particular project in a single neighborhood. Thus a superficial reading of the Examiner quote above could suggest that development in one-third of California's cities and counties has been governed by citizen-sponsored, slow-growth measures.

Previous Research

The most extensive list of development-related ballot measures currently available and most commonly cited in California newspapers is prepared by the California Association of Realtors (CAR).¹ This list includes ballot measures which affect community development in cities and counties.

A study by Madelyn Glickfeld and LeRoy Graymer reviewed the CAR data by "location, frequency, nature, election outcome and scope of local ballot measures..."² Glickfeld and Graymer point out important distinctions between citizen-sponsored and council-sponsored measures, as well as the differences between pro-growth and slow-growth measures. However, in presenting the aggregate statistics, Glickfeld and Graymer do not distinguish among different types of growth measures. Hence, "slow-growth" measures include propositions dealing with limited issues such as "offshore oil development" or "site specific issues" as well as those which establish broad, citywide "annual residential unit or population growth limits." In fact, as will be demonstrated below, proponents of the limited propositions may have little interest in participating in a slow-growth movement, concerning themselves instead with much narrower outcomes (e.g. neighborhood preservation).

In 1988, the League of California Cities (LCC) and the Institute of Governmental Studies (IGS) at the University of California - Berkeley undertook a study of citizen-sponsored ballot measures in California cities. Surveys were mailed to all California cities. To date, 273 cities (61 percent) have responded.

Citizen-sponsored vs. Council-sponsored Measures

The LCC/IGS study includes only citizen-sponsored measures. Any effort to study the role of electoral politics in local development should be sensitive to the qualitative difference between citizen-sponsored and council-sponsored measures. Citizen propositions are drafted to address lack of action on behalf of elected officials or to repeal official actions. Council-sponsored growth measures, on the other hand, generally are proposed as moderate (or even pro-growth) alternatives to citizen measures.

(X)

Citizen-sponsored measures are also subject to greater controversy both before and after the election. A council-sponsored measure follows the normal procedure of staff review for legality and technical quality of the measure. In essence, those who draft the measure are often responsible for its implementation and for defending it in court. Citizen-sponsored measures, on the other hand, are proposed by citizens who are dissatisfied with the very city officials who will be responsible for implementing the measure if it is successful. This adversarial relationship during the initiative campaign complicates the implementation process.

Community Development Among Other Initiative Topics

Table I summarizes all topics covered by citizen-sponsored measures in surveyed California cities during the past five years. The 'community development' category shows the greatest amount of ballot activity--accounting for 46 percent of the total measures which qualified for city ballots. Rent control propositions place a distant second with 16 percent of the measures, followed by environmental measures (7%), land acquisition/disposition (7%), and election reform (7%).

TABLE I

Number of Initiatives: 1983 - 1988

	<u>Not</u> <u>Qual</u>	<u>Qual</u>	<u>Passed</u>	<u>Failed</u>	<u>Council</u> <u>Adopted</u>
Comm. Dvpt	27	70	29	39	2
Rent Control	15	25	7	17	1
Environment	10	11	9	1	1
Public Land	4	11	5	4	2
Election Law	7	10	6	4	0
City Emp/ City Org	6	8	5	2	1
Public Peace	3	6	2	3	1
National/ International	2	4	2	2	0
Other	18	7	3	2	2
Total	92	152	68	74	10

(8)

Although community development measures lead the pack, not all of these measures focus on issues of growth control. At least two categories of measures are not growth related.

First, measures may focus on differing opinions on the manner of construction or the location of a particular project, instead of on the value/dangers of growth. For example, a measure recently debated in Davis over the proper location of an interstate overpass concerned the issue of where to build, not (as in slow-growth measures) whether or how much to build.

Votes on community redevelopment agencies/plans are a second category of non-growth-control measures. Proponents of these measures indicate concerns with the financing and wisdom of the particular project. The dispute in these measures is not over the desirability of growth, but over the strategies through which development should be pursued.

In sum, the 70 development-related measures for which data are available break into these three categories as follows:

Growth-related	56
Not Growth-related	9
Redevelopment	5

In declaring these 56 measures "growth control" measures, the definition of growth control as a movement must be considered. That is, the growth control movement of the 1970s and 1980s should be distinguished from NIMBY (Not In My Backyard) activism. In short, when citizens oppose rezoning to allow construction in one location (single site) for an apartment house or a shopping mall--examples of the NIMBY phenomenon, they are not necessarily expressing an opinion about community development in general nor do they necessarily consider their activities to be part of a broader slow-growth movement.

Failure to make this distinction would result in clumping Westlake Village's measure over expansion of a mobile home park with Walnut Creek's citywide traffic-control measure and Concord's building heights and density standards proposition. The first has limited impact. The latter two have sweeping implications for local planning and symbolic significance to growth advocates statewide.

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A second distinction is that between slow-growth and pro-growth measures:

Slow-Growth	
Growth Control	40
Single Site	12
Pro-Growth	
Growth Decontrol	4

Moreover, the win-loss record of growth control measures is balanced:

	<u>Won</u>	<u>Lost</u>
Slow-Growth		
Growth Control	19	21
Single Site	5	7
Pro-Growth		
Growth Decontrol	2	2

Our statistical trek is not intended to suggest that the initiative has had no effect on the growth control movement. But the data do demonstrate clearly that the role of the initiative in the growth control movement, and inversely, the significance of the growth control movement in expanding use of the initiative is smaller than aggregate numbers imply.

The measures above should not be interpreted as 56 cities with growth control propositions. On the contrary, growth and growth-control measures seem to have appeared often in clumps in a certain city. For example, three cities (Victorville, Walnut Creek, and Seal Beach) account for roughly one-fifth of the 56 measures. Only 42 cities are identified in this data as having experienced growth control initiative battles.

Conclusion

The initiative has been an important tool for raising the profile of the growth-control debate. This paper has demonstrated that statements about the role of initiatives should be tempered by an understanding of 1) the difference between council-sponsored measures and citizen-sponsored measures, 2) the difference between growth-related and non-growth measures, 3) the distinction between site-specific (NIMBY) measures and those

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which have broader effects within the city and state political systems, and 4) the tendency for growth to become a heated issue in a single community, resulting in repeated ballot measures.

These are important distinctions and clarify the sometimes exaggerated reports of the role of the initiative in the growth control movement. Furthermore, the distinctions help better to identify the boundaries of the growth control movement as it has developed in California.

ENDNOTES

1. California Association of Realtors. Matrix of Land Use Planning Measures: 1971 - 1988.

2. Madelyn Glickfeld and LeRoy Graymer. "Trends in Local Growth Control Ballot Measures in California." Background paper, UCLA Extension Land Use Law and Planning Conference.

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