

2012 Property Tax Ballot Measures

by Catherine Collins

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The George Washington Institute of Public Policy partners with the Lincoln Institute of Land Policy in Cambridge, Mass., in a joint venture creating Significant Features of the Property Tax. This web-based data set includes extensive multiyear information covering a wide range of property tax topics.

In 2012, 176 ballot questions were placed before the voters in 38 states in statewide primary, special, or general elections. Of those, only 19 measures in 11 states dealt with the property tax. That is a surprisingly small number when one considers that the property tax is used in all states, accounts for nearly three-quarters of local revenue, and has universally been considered the most unpopular tax. Given the unpopularity of the tax, it is unsurprising that all the proposals sought to reduce or minimize the tax, either by restricting the tax base, reducing tax rates, or prohibiting the creation of new property-based taxes. Also as might be expected, 68 percent of those proposals were approved, some by significant margins. However, the more dramatic proposals seeking to limit the tax, such as North Dakota's proposal to eliminate it altogether, were rejected.

Finally, it is clear that American voters value their homes differently from their other property, passing real property measures much more often than personal property measures. That may be because real property, especially homestead property, represents an increasingly higher percentage of the tax base. Overall, the results of these measures were never close — they passed or failed by wide margins. We have highlighted some of the interesting patterns with a summary of each proposal provided at the end of the article.

Types of Measures

The property tax ballot measures in 2012 addressed a variety of subjects, ranging from reducing the tax base by limiting its growth or expanding exemptions, to imposing new limits on adding new taxes or tax increases. The breakdown of the measures by issue is shown in Figure 1 (next page).

Although the 19 measures are diverse, there were some common threads and some interesting results. Voters were much more likely to vote for:

- reductions in residential property taxes than for reductions in commercial property taxes;
- measures creating or expanding property tax reductions for veterans and their families; and
- reductions in real property taxes than personal property taxes.

North Dakota voters soundly rejected the elimination of the property tax, and Florida voters balked at the chance to lower the rate of growth on property values. While the voters in Michigan rejected a measure requiring a two-thirds legislative vote to increase taxes or add new taxes, voters in Washington approved a nearly identical measure.

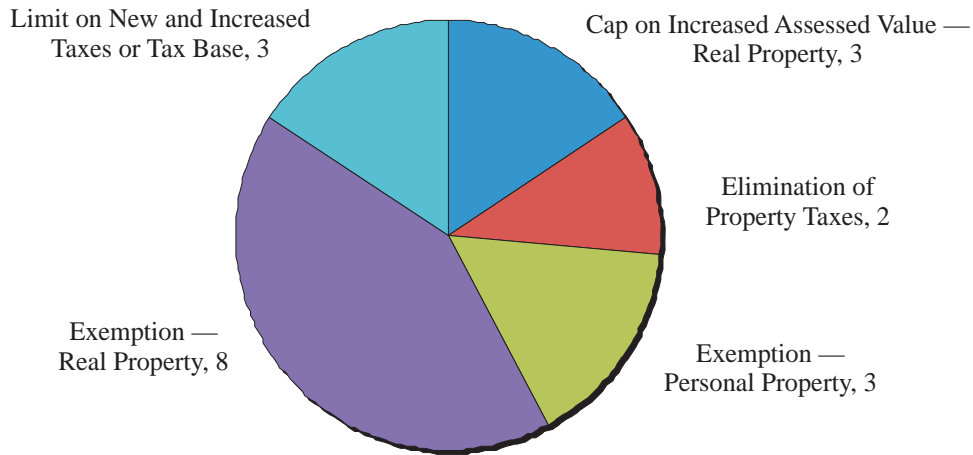
Residential Tax Measures vs. Commercial Tax Measures

The first pattern of note in the property tax measures is that voters were more likely to be presented with, and more likely to vote for, property tax relief for residential property than relief for commercial property.¹ Seven measures presented to voters dealt solely with residential property tax relief and all passed, with an average yes vote of 62 percent. By contrast, only five purely commercial property tax relief measures were on ballots. Excluding an Oklahoma proposal that dealt solely with intellectual property, none of the commercial measures received much support, with only one passing, with 52 percent of the vote.

In addition to measures that address residential or commercial property, seven propositions included

¹In this context, residential measures refer to those measures that are intended for the use of individual taxpayers, rather than corporate or other business entities. The Kansas measure, KS HCR 5017, which allows for the reclassification of recreational watercraft, is considered to be residential.

Figure 1.
Number of Ballot Measures by Type



both types of property. Perhaps reflecting the more complicated nature of commercial property measures, voters were less likely to vote for them than for residential measures. Only four of the seven passed. Although those that passed received strong support, those that failed were soundly defeated. There were two wildly unpopular measures: North Dakota Measure 2, which sought to eliminate property taxes, obtained only 23 percent support; and Michigan Proposal 5, which would have limited tax increases, received only 31 percent of the vote. Those measures are discussed in greater detail below.

Property Tax Measures to Help Veterans

Included in the residential exemption questions were four ballot measures to help veterans and military personnel. All four ballot questions passed. The veterans’ measures passed with strong support, receiving more than two-thirds approval. The other residential proposals eked out narrow victories, winning just more than half the votes — on average about 51 percent.

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The four military questions provided an exemption from taxes on real property for past or present military members or their spouses. Two questions were on the ballot in Florida and one question each in Louisiana and Utah. Utah Constitutional Amendment B, which passed with 68 percent of the vote,

was the most far reaching, providing a full exemption for all property taxes for active-duty military. That complements Utah’s existing 45 percent homestead exemption for resident homeowners and relief for disabled veterans. Florida Amendment 2, which passed with 63 percent of the vote, was more modest. It sought to expand the existing disabled veteran property tax discount to those veterans who were not Florida residents when they entered military service but who now reside in Florida. Finally, the remaining two amendments extended existing property tax exemptions for military members to their spouses. Florida Amendment 9 allowed the Legislature to expand homestead exemptions to surviving spouses of military veterans or first responders who died while on active duty. Louisiana Amendment 4 extended an existing property tax exemption to properties for surviving spouses whose service member spouses did not qualify for the exemption when still alive.

Exemption Measures

Eleven of the 19 ballot questions concerned a tax exemption on either real or personal property. Eight of those 11 questions proposed exemptions on real property, and three questions contemplated exemptions on personal property. Voters responded differently to the two categories of exemptions. Seven of the eight ballot questions regarding real property tax exemptions passed, with an average approval vote of 61 percent, compared with only one of three ballot questions regarding personal property tax exemptions passing. Those that failed did so by an average of 12 percentage points. Some of that disparity is related to the military questions trend described above. Three of the four questions dealing

with real property other than veterans' property passed with an average yes vote of 54 percent.

North Dakota Proposal to Eliminate Property Taxes

North Dakota's Measure 2, a proposal to eliminate the state's property tax, was put on the ballot by citizen initiative and required the signatures of 4 percent of the population. It was defeated by voters, with only 23 percent voting to end the tax. That failure may be attributed to both the large percentage of state revenue represented by the property tax and the proposal for replacing the property tax revenue. As presented on the ballot, the measure said merely that property tax revenues, which made up nearly 20 percent of total state and local revenue in 2010, would be replaced with "other state revenues." The actual constitutional amendment indicated that the specific "other state revenues" would be increases in state sales taxes, individual and corporate income taxes, oil and gas production and extraction taxes, tobacco taxes, financial institutions taxes, and lottery revenues. North Dakota

voters may have been reluctant to rely on the fairly recent windfall from the natural gas boom as a buffer against a dramatic increase in the other taxes.

Florida Proposal to Reduce the Cap on Increases in Assessed Home Value

Another interesting result occurred in Florida, where voters bucked the national trend and voted down a measure to reduce their tax burden through a reduction in the cap on increases in assessed value of real property. Florida Amendment 4, which failed by 57 percent to 43 percent, would have changed too many aspects of the property tax. Voters may have been confused by the initiative's complexity and may also have been worried about the loss of tax revenue. The state Revenue Estimating Conference had calculated that the measure would have reduced property taxes statewide by nearly \$1 billion over three years.

The measure incorporated multiple proposals. One part of the measure dealt with the Save Our

Why Constitutional Measures?^a

Why are so many states determining property tax questions by ballot questions, and more specifically, why constitutional amendments? The answer lies in the uniformity clause found in most state constitutions. Uniformity clauses require that state and local governments treat all property, or classes of property, within their jurisdiction uniformly for tax purposes. Thus, to change any aspect of the property tax, such as providing an exemption to one group of taxpayers and not all taxpayers, a constitutional amendment is necessary.

Though historians and tax experts disagree as to why uniformity clauses began appearing in state constitutions, the clauses began to appear in the constitutions of Southern and Northwestern states during the 40-year period before the Civil War. By the end of the 19th century, 33 states had uniformity clauses in their constitutions; today, 43 states have them. In addition to the states with constitutional clauses, Idaho and Vermont have statutory uniformity clauses, and Iowa has an ambiguous statement about uniformity that may refer to property tax. Although in colonial times the property tax was broad based, a combination of factors — including the rise of commercial property (and the accompanying desire to attract business to municipalities), the inability to accurately value personal property (much of which could be hidden when the assessor came), and increases in wages compared with property ownership (which eventually led to

the rise of income taxes) — led to various changes in the property tax during the 20th century.

Those changes have included caps on value, exemptions, and limits on increases and on total revenue, and have survived court scrutiny. For example, the U.S. Supreme Court has held that California's Proposition 13, a constitutional amendment that limits assessment increases and imposes an acquisition-based valuation system, does not violate the equal protection clause under the "rational basis" standard. The Court held that Proposition 13 was rational because it furthered California's legitimate state interests in at least two ways. First, it provided a tax system designed to discourage rapid turnover in ownership of real property, which encourages local neighborhood preservation, continuity, and stability. Second, although an existing owner must rely on the state to protect him from higher property taxes, a new homeowner has the option of not buying the home if taxes are too high.^b

By contrast, the Pennsylvania Supreme Court held that a base-year assessment system, similar to acquisition-based assessments, could be constitutional under Pennsylvania's uniformity clause. However, the court said that long-term use of a base-year assessment could result in inequities and would then be unconstitutional. As a result, the court required local jurisdictions to conduct regular reassessments.^c

^aHistorical information in this sidebar comes from: Robin Einhorn, "Species of Property: The American Property-Tax Uniformity Clauses Reconsidered," *The Journal of Economic History* 61.4 (2001): 974-1008.

^b*Nordlinger v. Hahn*, 505 U.S. 1 (1992).

^c*Clifton v. Allegheny County*, 600 Pa. 662 (2009).

**Table 1.
Property-Tax-Related Ballot Measures^{a, b}
2012**

State	Measure	Passage/Failure (Percentage indicates yes votes when measure passed and no votes when measure failed)	Description
Alaska	Ballot Measure 1	Passed: 50.1 percent	Allows boroughs and municipalities to raise the property tax exemption for residential property from \$20,000 to a maximum of \$50,000, subject to voter approval; allows boroughs and municipalities to adjust the exemption with a rise in the cost of living.
Arizona	Proposition 116	Failed: 56 percent	Would have allowed the state to provide a full cash value exemption for personal property (equipment and machinery) used in agriculture or trade business. The exemption would have been capped at the annual earnings of 50 workers in Arizona, as calculated by a national measure. The current maximum exemption is \$50,000.
	Proposition 117	Passed: 57 percent	Caps the annual increase in the value of real property at 5 percent of the value of the previous year, beginning with the 2015 tax year.
Florida	Amendment 2	Passed: 63 percent	Expands the property tax discount for disabled veterans to those who were not Florida residents when they entered service.
	Amendment 4	Failed: 57 percent	Would have reduced the assessment increase cap for non-homestead and commercial properties from 10 percent to 5 percent. Would have added an additional homestead exemption of 50 percent of just value for homeowners who have not owned property in the three previous years, capped at \$200,000 and reduced annually by 20 percent or the difference between just value and assessed value, whichever is greater. The additional exemption would have expired after five years or when the home is sold, whichever occurred first. Would have allowed the Legislature to prohibit an assessment from increasing if the just value was less than the just value of the preceding year for homestead, non-homestead, and commercial properties.
	Amendment 9	Passed: 62 percent	Allows the Legislature to totally or partially exempt from property taxes on homestead properties surviving spouses of military veterans or first responders who died in the line of duty.
	Amendment 10	Failed: 55 percent	Would have provided an exemption from ad valorem taxes levied by local governments on tangible personal property greater than \$25,000 but less than \$50,000 in value. Currently, an exemption applies up to \$25,000 of assessed value of tangible personal property. Would have allowed counties and municipalities to provide additional tangible personal property tax exemptions.
	Amendment 11	Passed: 61 percent	Allows the Legislature to authorize counties and municipalities to grant additional homestead exemptions equal to assessed value for homestead properties valued less than \$250,000 for owners who have maintained permanent residency on the property for at least 25 years, are 65 years of age or older, and have a low household income per state law.
Kansas	HCR 5017	Passed: 54 percent	Allows the Legislature to classify and tax watercraft differently than other property.

Table 1.
Property-Tax-Related Ballot Measures^{a, b}
2012
(continued)

State	Measure	Passage/Failure (Percentage indicates yes votes when measure passed and no votes when measure failed)	Description
Louisiana	Amendment 4	Passed: 74 percent	Expands the property tax exemption for surviving spouses of deceased veterans with service-connected disabilities to properties that did not have the exemption prior to the death of the veteran.
	Amendment 6	Failed: 58 percent	Would have allowed the governing authority of New Iberia, by a two-thirds majority vote, to enter into contracts for the exemption of ad valorem taxes on property annexed into New Iberia after January 1, 2013. Contracts would have been for a period of up to five years and renewed for up to an additional five years.
	Amendment 8	Passed: 52 percent	Allows ad valorem tax exemption contracts by the Board of Commerce and Industry for non-manufacturing businesses in parishes that opt in to the program.
Michigan	Proposal 5	Failed: 69 percent	Would have required that new or additional taxes, the expansion of the tax base, and rate increases be approved by either a two-thirds majority in each legislative chamber or by the voters in a November election.
North Dakota	Measure 2	Failed: 77 percent	Would have eliminated property taxes; would have required the replacement of property tax revenue with other state revenue and resources.
Oklahoma	State Q 758	Passed: 68 percent	Caps the annual increase in assessed value of property that qualifies for a homestead exemption and agricultural property at 3 percent. An existing tax limit caps the increase in assessed value of all real property at 5 percent. If assessed value exceeds market value, assessed value drops to the market value.
	State Q 766	Passed: 65 percent	Eliminates property taxes on intangible personal property.
Oregon	Measure 79	Passed: 59 percent	Prohibits real estate transfer taxes.
Utah	Constitutional Amendment B	Passed: 68 percent	Exempts active-duty military service members from paying state property tax.
Washington	Initiative 1185	Passed: 64 percent	Requires either a two-thirds majority in each legislative chamber or a vote by the people to raise taxes ("any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund"). The limit already existed in code but the Legislature suspended it as it is being challenged in the state supreme court.

^aAlaska Ballot Measure 1 and Washington Initiative 1185 were statutory measures; all other measures were constitutional amendments.

^bAlaska Ballot Measure 1 appeared on the August 28, 2012, ballot; North Dakota Measure 2 appeared on the June 12, 2012, ballot; all other measures appeared on the November 6, 2012, ballot.

Sources: Websites of the state commissioners of elections, secretaries of state, and boards of election/canvassing.

How Measures Get on the Ballot

A measure's purpose and how a measure gets on the ballot can vary as much as the questions presented to the voters. State ballot measures enable citizens to vote on constitutional amendments, statutes, and other items, such as advisory questions and requests for a constitutional convention. Questions can be placed on the ballot by commission referral, constitutional convention, citizen initiative or petition, legislative referral, veto referendum petition, and indirect petition.^a In an indirect petition, measures are placed on the

ballot following the successful collection of petition signatures to request that the legislature adopt a measure. If the legislature does not adopt the measure, it is placed on the ballot for voter consideration. In 2012, 19 property-tax-related measures were presented to voters in 11 states; 17 were constitutional amendments, and two were statutory amendments. For those 19, 14 were legislatively referred, four were placed on the ballot through a citizen initiative or petition, and one was placed on the ballot by indirect petition.

^aMeasures are treated differently depending on their origin. For example, in Florida, citizen petitions require both signatures and court review, while legislative proposals are not reviewed unless there is a legal challenge.

Homes program for residential homeowners. Currently, the assessed values can increase by the rate of inflation or 3 percent, whichever is less, as long as the assessed value is below market value. The measure would have prevented any increase in assessed value when the market value declined. Another section of the amendment would have given an additional 50 percent homestead exemption to new homeowners who have not owned a home in the past three years. The exemption, not to exceed the median market value of all homes in the same county, would have phased out for the homeowner over five years.

Another part of the measure would have reduced from 10 percent to 5 percent the increase cap on non-homestead real property assessed values. Finally, the measure would have further delayed by four years the sunset of limits on commercial property assessment increases initially adopted in 2008. Also, the opportunity for voters to repeal the sunset would have been extended from 2018 to 2022.

Tax Limits in Washington and Michigan

Finally, two similar measures, both requiring either a two-thirds majority of legislators or a ballot measure to increase state tax revenue in any way, had different results in Washington state and Michigan. The different results may be explained by the specific circumstances in each state.

Michigan voters soundly rejected Michigan Proposal 5 by a vote of 69 percent to 31 percent. The measure, a constitutional amendment, would have required either a supermajority in the Legislature or a majority vote in a statewide ballot initiative to increase a state-imposed tax, expand the tax base, or impose new taxes. The Citizens Research Council of Michigan analyzed the proposal and agreed that local taxes, including property taxes, would be unaffected because (1) the measure used the word "imposed" rather than "authorized," "allowed," or

"permitted"; and (2) Michigan has an existing requirement that local taxes be approved by referendum.

In Washington, however, voters approved, by 64 percent to 36 percent, Initiative 1185 preventing "any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund" without a two-thirds supermajority of both state houses or a majority vote in a statewide ballot initiative.

The difference in results between Michigan and Washington may be that Washington voters felt their proposal was more acceptable. Washington voters' approval may be attributed to the state's experience with that type of measure. First, the Washington measure was a statutory rather than a constitutional amendment, which means that a simple majority of the Legislature could overturn the limit. Second, the supermajority requirement has existed in Washington since 2007, but without the provision for the ballot initiative. Subsequent to the passage of the measure, the Washington State Supreme Court found supermajority legislative requirements to be unconstitutional unless passed as a constitutional amendment.² However, the court also said that they could not rule on referendum requirements, leaving the fate of Initiative 1185 in doubt. The addition of the ballot initiative in the new measure could provide safeguards that may withstand court scrutiny. ☆

²*League of Education Voters v. Washington State*. 176 Wn.2d 808 (2013).