

THE NAYS HAVE IT: When Public Sector Unions Win in California

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This November, California voters must decide two policy questions of great concern to public-sector unions. One is a tax hike to stave off further cuts to state spending (there are two versions on the ballot with a chance of passing). The other is a “paycheck protection” measure that would ban the practice of unions’ deducting money from member paychecks to spend on political activism. Public-sector union members stand to benefit from the tax increase, and they are campaigning heavily for one version, Proposition 30, which is being promoted by Governor Jerry Brown. Conversely, the unions stand to lose money and power if paycheck protection passes, and they are working hard to defeat it.

To understand what these political battles teach us about the outsize influence of public-sector unions in California politics, this study examines how public-sector unions have fared on proposition campaigns since 1980. (1980 is the starting year because it marks the beginning of the trend to decide major policy questions by “direct-democracy” elections and because most public employees in California had been unionized by that year.)

The direct-democracy process—in which any person or group can place a question before the electorate, if they can collect enough signatures in support of it—plays to the political strengths of public-sector unions. Union members are easy to mobilize for signature drives and get-out-the-vote operations. Unions have a steady and stable revenue stream for political activism, as monies are deducted directly from members’ paychecks by government and funneled into union coffers. Their members tend to have higher levels of education than most citizens, which correlates with more electoral participation. In low-turnout contests, which ballot measures can be, union members can constitute a higher proportion of the electorate. And unlike businesses and other stakeholders, public-sector unions focus on a few core issues, thus concentrating their firepower.

This study tracks the effects of these unusual advantages. In the initiative process, we find that public-sector unions have played a big role in pushing for higher taxes and thwarting reform—all in an effort to maintain a status quo that favors their needs at the expense of the public interest. Unions are also highly influential in the state legislature, so their effectiveness in the initiative process makes them arguably the single most powerful political force in the Golden State.¹

Public-sector unions have taken a position on 42 percent of the 178 ballot initiatives over the last 30 years. Voters ratified nearly half the measures they supported, and 75 percent of the measures that the unions opposed were defeated. In other words, unions are fairly effective playing “offense,” working to win their goals at the ballot box. But they are extraordinarily effective playing “defense,” using initiative campaigns to block proposals that threaten their interests.

Even these figures may understate the extent to which unions have succeeded in using initiative campaigns to meet their policy goals: we found that whenever a proposal was especially important to the unions, such that they pulled out all the stops in their campaign efforts, they almost always won.

In these big battles, public-employee unions often outspend and out-mobilize their opponents by huge margins. A large majority of these fights have been over education policy, with the teachers’ unions being the central actor. For example, among the unions’ victories was Proposition 98 in 1988, which mandated that 40 percent of the state’s general fund be spent annually on K–12 education and community colleges. That measure has greatly constricted the state’s fiscal flexibility, reduced efficiency in public education, and helped make California’s teachers the most expensive in the country. In opposition, the teachers’ unions twice defeated proposals for school vouchers and other proposals to bring more accountability to the state’s public schools.

What does this analysis portend for the election this November? Our analysis suggests that the vote on the tax increase is likely to be very close, and the unions will probably be able to defeat the paycheck-protection measure for a third time.

It is important to remember that politics has consequences for policy. In their campaigns, unions have won increased government spending, less accountability and efficiency in education, and protections for their own political power. In so doing, they have managed to stymie reforms that might well have improved the performance of California’s public institutions and lessened the severity of the fiscal crisis that the state now faces.

ABOUT THE AUTHOR

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THE NAYS HAVE IT: WHEN PUBLIC SECTOR UNIONS WIN IN CALIFORNIA

Daniel DiSalvo INTRODUCTION

Last year saw several high-profile political battles over the collective bargaining rights, benefits, pay, and union power of public-sector employees—most notably, in Wisconsin. There, reform efforts led to months of demonstrations and political struggles, culminating in recall drives against several officeholders. The state's governor, too, faced a recall election, which he won. Though public-sector unions mustered vast amounts of money and manpower to defend their interests in these fights, they were ultimately defeated. This fall, the nation will see another test of unions' ability to defend the status quo: it is California's turn to wrestle with possible changes in fiscal policy that strike at the heart of public-sector unions' well-being.

Though the Wisconsin fight attracted the most national attention, the coming California battle may well be more important. One reason is the Golden State's sheer size. With 37 million people, California is home to 12 percent of the population of the United States and is the ninth-largest economy in the world. It has the second-largest budget in the country (after the federal government), and it had the largest budget deficit (\$16 billion) of any state this fiscal year. Any major change in the way California does business is bound to have economic and political ripple effects throughout the United States. California is also an extreme case of fiscal disarray: it depends heavily on income taxes, which are already high, and it has a pension system with some

\$500 billion in liabilities that is inadequately funded (at 78 percent, when experts agree that the absolute minimum level ought to be 80 percent). Politically, too, California reformers face an outsize challenge. The state's public-sector unions are among the most powerful in the country, and 57 percent of state and local workers belong to unions.

California's struggles with fiscal policy have been placed in the hands of voters, who must decide at the ballot box the fate of proposals for major change. With the state legislature largely dysfunctional, direct-democracy processes are the only practical means for making significant changes in policy. This situation makes fiscal policy the subject of expensive statewide campaigns, in which both sides spend vast sums to defend their positions. Direct voting on ballot initiatives began in the Progressive era to get around "the Octopus"—a corrupt legislature dominated by railroad interests—and its proponents hoped that it would make politicians more accountable and incite greater citizen participation in politics. Instead, the ballot-initiative process in California has become yet another costly venue for special interests to do battle.²

This study examines how this ballot-initiative process has affected, and has been affected by, one particular interest group: public-sector unions. It thus relates a uniquely Californian way of making public policy to a national phenomenon: states' struggles to reform their labor practices in the face of intense counter-pressure by public-sector unions to retain gains that they won in the twentieth century.

Two major issues on California's November ballot touch on policies crucial to union interests. First is the question of raising taxes, most likely in the form of Proposition 30, a set of tax increases promoted by Governor Jerry Brown and the state's main public-sector unions.³ An even greater tax hike, Proposition 38, also has a chance of passage. If either measure passes, it will help temporarily stave off deep spending cuts and thus reduce the pressure for more significant reform in the way the state deals with its employees. If both measures pass, the one with the most votes will go into effect.

The second major issue, Proposition 32, would deal a devastating blow to unions' political power. It would prohibit direct donations to California political candidates from unions and corporations. More significantly for the unions, the measure also would prohibit deducting money directly from their members' paychecks for spending on political activism. This measure alone is likely to elicit \$50 million in political spending.⁴

California's public-employee unions bring immense resources in money, manpower, and political influence to the fight. They constitute an enormously powerful interest group whose agenda is to push for more government spending—which, of course, benefits their members—and for higher taxes to pay for it. Consider, for example, the 335,000-member California Teachers Association (CTA). According to the California Fair Political Practices Commission, this union spent over \$210 million in the first decade of the twenty-first century on political campaigning—more than any other organization in the state. And as policy analyst Troy Senik notes in *City Journal*, "the CTA outspent the pharmaceutical industry, the oil industry, and the tobacco industry *combined*."⁵

Public-sector unionism in California today can be divided into three major forces: the CTA and other teachers' unions; those in the protective services (police, firefighters, highway patrol, and corrections officers); and the Service Employees International Union (SEIU), which represents a potpourri of workers, including noninstructional school staff, prison staff, home health-care workers, and many others. All have participated in political battles over ballot initiatives, in order to advance their policy goals or block proposals that they deemed were against their interests.

For this report, we analyzed 178 propositions placed before California voters between 1980 and 2010, to delineate the role of public-sector unions in the process. We found that these unions have been more effective playing defense: they are good at blocking changes that they oppose but less successful at obtaining policy changes that they want.⁶ This in no way diminishes the political significance of union

activism, however, because the power to block change can be as significant as the power to produce it. Over the years, unions have managed to stymie reforms that might well have improved the performance of California's institutions. And they have sometimes won playing offense as well—securing victories that often have had huge negative consequences for the state's fiscal health. But there is a better predictor of success than whether public-sector unions are on offense or defense: how much they care about the result. The general pattern in our findings is that when these unions are heavily invested in an initiative's outcome, they win.

THE OUTLOOK FOR NOVEMBER

Though polls at this writing indicate that a majority of voters favor Proposition 30, history suggests that it faces tough odds this November 6. Over the past three decades, the only tax-related ballot initiatives that have passed in California were those that *lowered* taxes on the population as a whole (the only exception was a measure that raised taxes by increasing levies on cigarettes and other tobacco products). All direct-democracy efforts to increase income or sales taxes have failed miserably. Nonetheless, Governor Brown is campaigning hard for Proposition 30, saying that it will determine the fate of education in California. By framing the issue this way, he has won the support of the teachers' unions. As we have mentioned, they collectively form one of the most powerful political forces in the state, so this alliance has given the measure a better than usual chance of approval.

As for Proposition 32, the paycheck-protection proposition, California public-sector unions have twice won campaigns to defeat this kind of ban on unions deducting political money from paychecks. These unions are currently on pace to outspend supporters of this latest measure by five to one.⁷ As we've noted, unions have proved most successful in these campaigns when they were working to *prevent* change. On the other hand, a new political climate, especially in the wake of national debate about public-sector unions sparked by Wisconsin, might make them less successful this year than they have been in the past.

BACKGROUND: A CLOSER LOOK AT THE STAKES IN CALIFORNIA

Once an example of good government and well-run public services, California is now regularly compared to Greece and referred to as a “dysfunctional” or even as a “failed” state.⁸ For the past decade, the state has been in near-permanent crisis. It has regularly run budget deficits, using accounting gimmicks to stay within the letter of its constitutional requirement to balance its books. Every year, the state government pushes problems into the next accounting cycle. Governor Brown has colorfully described the state's budget process as a “pretzel palace of incredible complexity.”⁹

Matters became dramatically worse this year. The state began 2012 estimating its annual budget deficit as \$9.2 billion. By June, that figure had risen nearly 60 percent, to \$15.7 billion. The state's nonpartisan Legislative Analyst—the equivalent of the Congressional Budget Office—estimates that the state will face similar structural deficits for years to come.

Fiscal dysfunction is not confined to the state government in Sacramento. Four cities—Vallejo, Stockton, Mammoth Lakes, and San Bernardino—have recently declared bankruptcy. The state's three largest public-employee retirement plans—CalPERS, CalSTRS, and UCRS—cover 2.6 million workers and have unfunded liabilities of over \$500 billion, according to the Stanford Institute for Economic Policy Research.¹⁰ Today, California's A-bond rating competes with Illinois for the worst in the country. California has 11 percent unemployment—a third higher than the rate in the rest of the nation. Between 2000 and 2010, its economy grew by 17 percent—an unimpressive rate, especially when compared with the decade's 26 percent in Texas, where many California companies have fled.¹¹ Population growth, once far above the national average, is now no greater than the United States' average and is poised to slip below it in the coming years.

Why has nothing been done to address the root causes of these difficulties? The incapacity of California government to manage its own affairs is a long, com-

plicated story, with many contributing factors and blame widely distributed. Among the guilty parties are the very direct-democracy procedures that are the subject of this study, which make detailed debate and political compromise difficult. Other significant drivers include: supermajority requirements for passing revenue bills in the legislature; party polarization; and voters who want extensive services but also low taxes. There is no single culprit.

Into this mess has stepped Jerry Brown, who first served as governor of California from 1975 to 1983, and who was again elected to the post in 2010. He has won some public-employee pension reform and has proposed spending cuts and new tax revenues. Few of his proposals, however, touch the deeper problems in the state's finances, which stem from the benefits for existing government employees and retirees, Medicaid, the prison system, and California's tax structure.¹² Because changing the pension scheme was anathema to public-employee unions, Brown's plan was initially scuttled in the legislature (after months of inactivity, a weaker version finally passed in September). In the realm of annual spending, Brown and the legislature have opted for budget cuts in services whose recipients have much less political clout than unions: universities, parks, the court system, and welfare recipients. In addition, they have cut aid to local governments, which, in turn, must reduce public services.

These are year-to-year cuts, not structural reforms. Rather than undertake deeper changes, Governor Brown has sought to raise more revenue. He cannot do this in the legislature, where a feeble but strongly

antitax Republican Party has just enough votes to block the necessary supermajority for a tax increase. Hence, once again, a fiscal question is being put before the voters directly, after Brown's organization collected approximately 800,000 signatures to put a measure onto the November ballot.¹³

THE HISTORY OF PROPOSITION 30

At first, Brown proposed a temporary increase in sales taxes for four years, along with a rise in income taxes on the affluent for five years. The governor optimistically estimated that the increases would yield additional revenue of some \$7 billion a year. However, Brown ran into opposition from public-employee unions that wanted to tax the rich more and eliminate the sales-tax increase. Last March, those unions and the governor reached a deal. Their merged proposal became Proposition 30, which proposes a smaller sales-tax increase (from today's 7.25 percent to 7.5 percent, down from Brown's original proposal of 7.75 percent). The income-tax provision is billed as a "millionaire's tax," but if endorsed by voters, it would create two new brackets and impose a 10.3 percent tax rate on income over \$250,000 but less than \$300,000; a 11.3 percent tax rate on taxable income over \$300,000 but less than \$500,000; a 12.3 percent tax rate on taxable income over \$500,000 but less than \$1 million; and a 13.3 percent tax rate on income over \$1 million (Table 1).

Having reached an accord with the governor, public-sector unions are now backing the revenue raiser. Both he and the unions have framed the measure as a way to repair the overall budget and benefit the public

Table 1: Proposition 30: Brown's Tax Plan

Income Tax			
Tax bracket	Current rate	Proposed rate	Increase
\$250K–\$300K	9.30%	10.30%	10%
\$300K–\$500K	9.30%	11.30%	18%
\$500K–\$1 million	9.30%	12.30%	24%
\$1 million+	10.30%	13.30%	23%
Sales Tax			
	Current rate	Proposed rate	Increase
NA	7.25%	7.50%	3.45%

schools. Governor Brown argues that the increased tax burden must be borne for the sake of the state's children. As he put it: "This is not about any other issue. It's not about the environment, it's not about pensions, it's not about parks. It's about one simple question: Shall those who've been blessed beyond imagination give back 1 or 2 or 3 percent for the next seven years, or shall we take billions out of our schools and colleges to the detriment of the kids?"¹⁴

OTHER PROPOSITIONS

Typically for California, two other tax-related measures, which contradict Proposition 30, have also made it onto the ballot. Only one, though, has attracted the money needed to have any chance of passage: Proposition 38. It is an even more robust version of taxes-for-education than Brown's. It is the brainchild of Molly Munger, a well-to-do civil rights lawyer (who is the daughter of Charles Munger, Warren Buffett's partner at Berkshire Hathaway). Her measure would raise more money—estimated at some \$10 billion a year over 12 years—by increasing income taxes across the board, not just those of the affluent.¹⁵ And it would earmark most of the new revenue for public education, explicitly preventing it from being used to address the current budget crisis. If both tax hikes pass, the one that receives the most votes would become law.

Munger herself is largely paying for the campaign for her initiative. Unions are providing much of the money and muscle in favor of Proposition 30. And, of course, some business and taxpayer groups are fighting both measures.

ANALYSIS: UNIONS AND THE DIRECT-DEMOCRACY BALLOT

The seeds of outsize union influence on California politics were planted in the late 1970s. Earlier in that decade, a series of court decisions required the state to address large disparities in spending in its school districts. The effect in many jurisdictions was to increase spending on public education, such that many localities sought new revenues through higher property taxes. In reaction, a statewide tax revolt led

to the passage of one of the most famous of California's direct-democracy initiatives: Proposition 13. This law capped property-tax increases at 2 percent of a property's assessed value, required a two-thirds majority in the legislature for any tax increase, and sought to slow the growth of local governments.¹⁶ Those governments, which depended heavily on property taxes, now found themselves unable to pay for education and other services that their constituents demanded. They turned to the state government. Hence, Proposition 13 had huge consequences for the state's public finances.

Even as the state became more involved in paying for once-local services, it was opening the door to more government spending in other ways: this was the period when it began permitting public employees to exercise collective bargaining rights and unionize. In 1968, Governor Ronald Reagan signed the Meyers-Milias-Brown Act, permitting collective bargaining and unionization in local governments. Building on that step, Governor Brown, in his first stint in office, extended collective bargaining rights to nearly all public employees in the state. He signed the Public Educational Employer-Employee Relations Act in 1976 (K–12 schoolteachers), the Dillas Act in 1978 (state workers), and capped it off in 1979 with the Higher Educational Employer-Employee Relations Act (university employees). The result was a huge wave of unionization among government employees in the 1980s.

Meanwhile, the initiative process itself was becoming more important in California politics. The success of Proposition 13 alerted interest groups and politicians to the power of direct democracy. In the 1960s, only nine such initiatives qualified for the ballot; even in the 1970s, there were only 22 propositions before the electorate. In the 1980s, though, 46 initiatives reached the California ballot. Policy by initiative is now firmly established: in the last decade, 74 initiatives have been placed before voters.¹⁷

There are a number of good reasons to take 1980 as the starting year for our analysis. It was then that public-employee unions began to emerge as formidable political players, and it was then that direct democracy

took off as a factor in California politics and policy-making. By the early 1980s, unions had major assets to bring to any statewide ballot fight: money, manpower, organization, and legal protections to bring to bear for, or against, any proposal that touched on their interests. They soon discovered that direct-democracy campaigns play to their strengths. With their common workplace, unions have a membership base that is easy to mobilize for signature drives and get-out-the-vote operations. They have a steady and stable revenue stream, as monies are deducted directly from members' paychecks by government and funneled into union coffers. Their members tend to have higher levels of education than most citizens, which political scientists have found correlates with more avid electoral participation. And in low-turnout contests, which ballot measures can be, union members can constitute a higher proportion of the electorate.

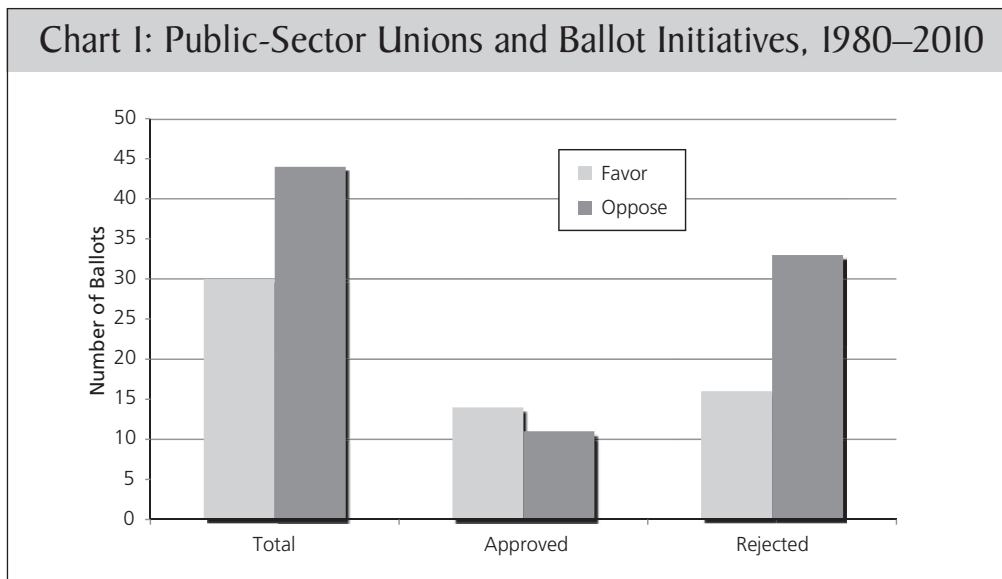
To evaluate the impact of public-sector unions on these campaigns, we examined 178 initiatives from 1980 until 2010.¹⁸ Of those, 73 were voted into law and 105 were rejected (a 41 percent passage rate). We coded each measure as "liberal," "conservative," or "other."¹⁹ Liberal initiatives were those that raised labor or environmental standards or that increased public spending or taxes. Conservative initiatives went in the opposite direction in those areas or emphasized social issues such as blocking illegal im-

migration, halting affirmative action, or banning gay marriage. Issues not easily categorized as liberal or conservative—such as gaming on Indian reservations or electoral reforms—were coded "other."

All told, there were 93 liberal, 39 conservative, and 45 "other" initiatives. A total of 32 liberal initiatives passed and 61 failed (a passage rate of 34 percent), while 20 conservative measures passed and 19 failed (a 51 percent passage rate). Liberal measures were thus slightly below, and conservative measures slightly above, the overall passage rate. These figures suggest that liberals are more likely to propose measures and to be successful at getting them onto the ballot than are conservatives in California. But conservatives are more likely to see voters enact their initiatives than are liberals. To cite a few examples, conservatives have succeeded in passing measures that limit taxes, get tough on crime, restrict marriage to heterosexuals, eliminate bilingual education, and place restrictions on illegal immigrants.

Next, the measures were coded by whether public-sector unions were in favor, opposed, or neutral.²⁰ We used state voter guides to determine the unions' positions. These contain the arguments for and against a measure and are signed by supporters and opponents with their organizational affiliation.²¹ We found that unions took a position on 74 of the 178 measures

Chart I: Public-Sector Unions and Ballot Initiatives, 1980–2010



(or 42 percent) and were in favor of 30 measures and opposed to 44 (Table 2). Of those they opposed, 11 passed and 33 were voted down. So the unions were able to block about 75 percent of the initiatives that they opposed, 17 of which were conservative, 15 liberal, and 12 neither. Of those that public-sector unions favored, 14 passed and 16 were rejected, for a passage rate of 47 percent.

The unions were a help in enacting mostly liberal goals: they supported only four conservative initiatives but backed 23 liberal initiatives and three that we classified as neither liberal nor conservative. The passage rate for measures that the unions supported was higher than the overall passage rate. The rejection rate for measures that the unions opposed was, however, much higher than the overall rejection rate—hence our conclusion that public-sector unions are more successful on defense (stopping initiatives) than on offense (winning things they want).

However, not all ballot measures are equal. Some have been exceptionally important for public-employee unions (and have had profound consequences for California). In the campaigns around these unusually important initiatives, California's public-employee unions have fared extremely well.

BIG-TICKET BALLOTS

We isolated the 15 propositions that stand out as particularly important to public-employee unions (Table 2).²² These were major battles on which the unions spent huge sums of money in efforts to convince the electorate and mobilize their members. This more qualitative analysis reveals that when unions pull out all the stops for a ballot-initiative campaign, they almost always win. Of these major initiatives, the unions supported six and opposed nine, and voters enacted only one of those that they fought (ending bilingual education in 1998). On the other hand, voters ratified four of the six measures that the unions supported. And the two that failed went down by quite narrow margins. (One of these proposals would have allowed school districts to issue their own bonds, if approved by a simple majority of voters rather than the existing two-thirds requirement; the other would have put limits on lobbying and established limits on campaign contributions and spending.) In sum, out of the 15 ballots most dear to them over the last 30 years, the unions have lost only three times. It is an impressive record.

What issues motivated the unions to pull out all the stops? Education, clearly central to the teach-

Table 2: 15 Most Important Measures for Public-Sector Unions, 1980–2010

Year	Proposition	Yes %	No %	Union Position	Short description
1986	Prop 61	34.1	65.9	Oppose	Cap on public-employee salaries
1988	Prop 98	50.7	49.3	Support	General fund financing; school funding
1992	Prop 162	51.0	49.0	Support	Public-employee retirement systems
1993	Prop 174	30.4	69.6	Oppose	State education vouchers usable for public or private schools
1996	Prop 212	49.2	50.8	Support	Campaign contributions and spending limits; restrict lobbyists
1998	Prop 8	36.9	63.1	Oppose	Create fund for reduction in class sizes; require teacher testing
1998	Prop 226	46.7	53.3	Oppose	Union member's permission required to use dues for politics
1998	Prop 227	60.9	39.1	Oppose	End bilingual education
2000	Prop 26	48.7	51.3	Support	Authorize school districts to issue bonds if approved by majority of voters
2000	Prop 38	29.3	70.7	Oppose	Authorize state payments of \$4,000 per pupil for private and religious schools
2000	Prop 39	53.3	46.7	Support	Authorize bonds for construction of school facilities if approved by 55 percent vote
2002	Prop 49	56.6	43.4	Support	Increase funds for after-school programs and low-income schools
2005	Prop 74	45.0	55.2	Oppose	Extend period before tenure from 2 years to 5 for public school teachers
2005	Prop 75	47.0	53.5	Oppose	Prohibit public-employee unions from using dues for political purposes
2005	Prop 76	38.0	62.3	Oppose	Set limits on state spending and relax education spending requirements

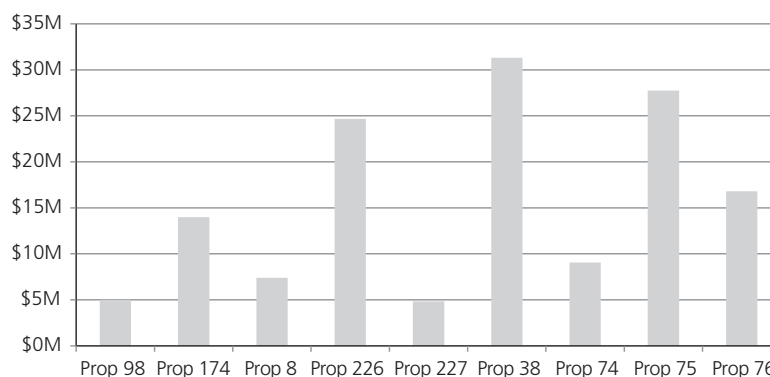
ers' unions in California, tops the list: ten of the 15 measures touched on education issues. On "defense," six of the nine initiatives that the unions opposed were education-related. These political triumphs had huge policy consequences. Led by the CTA, public-sector unions managed to block proposals for school vouchers (twice), teacher evaluation and testing, new requirements for teacher tenure, and a relaxation of education spending requirements. On "offense," four of the six measures that unions supported were designed to funnel more money into the schools. On all these propositions, the unions spent substantial sums (Chart 2). Indeed, on some of them, they almost entirely underwrote their side of the campaign. In most of these campaigns, the teachers' unions and their allies significantly outspent their rivals. A few of the votes were close; but in most cases, the union position won an overwhelming majority. No wonder former Governor Pete Wilson described the CTA as a "relentless political machine."²³

The most important of all these education-related measures was Proposition 98 in 1988. It required that 40 percent of the state's general fund be spent annually on K–12 education and community colleges. That year, the CTA spent \$4.5 million, a very large sum in those days, to promote it. The CTA's victory, by a slim margin, was one of the most significant pieces of legislation in the last 30 years of

California history. It also demonstrated the power of the teachers' unions. As political scientist Terry Moe asked: "How often is a special interest group able to commandeer 40 percent of a state's entire budget for its own realm of policy?"²⁴ The consequence was a severe constriction of the state's fiscal flexibility. By guaranteeing such lavish funding, Proposition 98 also reduced accountability, as school districts have had to worry less about the most efficient allocation of resources. By using its influence on local school boards, the CTA channeled much of the new monies—about \$450 million a year—into increasing teacher pay.²⁵ California now boasts the highest average teacher salaries in the country.

In opposition, the teachers' unions have vehemently opposed voucher plans, which they see as a threat to their survival. School vouchers have made it onto the ballot twice in California: Proposition 174 in 1993 and Proposition 38 in 2000. In both instances, the teachers' unions single-handedly bankrolled the opposition campaign.²⁶ In the 1993 campaign on this issue, the CTA spent \$12.5 million, outspending supporters 8 to 1. In addition, it persuaded March Fong Eu, the secretary of state, to significantly change the proposition's title from "Parental Choice" to "Education Vouchers."²⁷ According to education scholar and former teacher Myron Lieberman, the more controversial title dropped Proposition 174 ten points in

Chart 2: Public Sector Union Spending on Education Initiatives



Source: National Institute on Money in State Politics; and Troy Senik, "The Worst Union in America," *City Journal* (spring 2012). Note that Prop 98 and Prop 174 only include spending by the CTA. The other columns show combined measures.

the polls, where it had initially been well received by voters.²⁸ In the 2000 ballot fight, the teachers' unions spent some \$21 million. In both cases, many other interest groups in California—such as the NAACP, the PTA, and the ACLU—publicly opposed school vouchers. Yet they spent almost nothing to defeat the proposals at the ballot box.

The teachers' unions have also blocked efforts to impose greater accountability measures on California's public schools. In 1998, the CTA spent nearly \$7 million to defeat Proposition 8. The measure would have allowed the use of student performance as a criterion for teacher evaluation and required teachers to take credentialing tests in their fields. In 2005, Governor Arnold Schwarzenegger, in his supposed "Year of Reform," proposed a measure aimed at teacher tenure in K–12 education that would have extended the apprentice period for teachers from two years to five. Another measure would have set limits on state spending and relaxed the education spending requirements imposed by Proposition 98. The CTA alone spent \$57 million, mortgaging its Sacramento headquarters, to fight these and other measures.

Given their record, it is understandable that many consider public-employee unions in California quite simply the most effective interest group in state politics. Our analysis finds that the unions often outspent their opponents handily on many issues. In 2005, for example, the unions and their allies spent \$54 million to defeat Proposition 75 (another version of paycheck protection). The measure's supporters mustered a measly \$5.8 million. Governor Schwarzenegger's state-spending cap elicited zero support while its opponents, led by the unions, shelled out \$28 million. Including the paycheck-protection measure of that year, in 2005 all public-sector unions combined spent a whopping \$90 million in opposition to initiatives they deemed against their interests, according to the National Institute on Money in State Politics. Supporters of these measures didn't even come close.

What about the other side of the coin—measures favored by business? A look at these campaigns finds that they typically involve less spending and that opponents and proponents tend to be evenly

matched. This suggests that other groups that spend in initiative campaigns are spread across many different issues. In contrast, the role of the unions is concentrated on a few priorities and is thus outsize. This finding comports with reporting by *The Wall Street Journal*, which found that organized labor, led by the SEIU, spends far more on political activity than is generally thought.²⁹ Some have claimed that public-sector unions are regularly outspent by business interests (however defined). Our analysis finds that, at least in the California's direct-democracy process, this is a myth.

THE FALL CAMPAIGN

What does this analysis portend for the fall campaign? The tax increase faces an uphill battle. Governor Brown appears to recognize this, having said that his campaign must "generate the moral equivalent of war" because "people must understand that we have to make sacrifices if we want to have a future."

Over the last 30 years, voters have enacted only 6 out of 21 tax-related initiatives. All but one of these either reduced the tax burden or made it more difficult to raise taxes. Two of the measures were nearly identical repeals of gift and inheritance taxes. Another indexed taxes to inflation, thus reducing "bracket creep." Yet another repealed sales taxes on certain foodstuffs. And Proposition 62 in 1986 made it more difficult for local government to raise taxes, requiring a two-thirds majority of the governing body. Meanwhile, direct-democracy campaigns to raise income and sales taxes have all failed, sometimes miserably. Proposition 167 in 1992, which sought to raise income-tax rates (and repeal a previous sales-tax increase), was rejected by voters: 59 percent were opposed, and 41 percent were in favor. Proposition 217 in 1996, which sought to reinstate higher rates on top earners, lost by the narrow margin: 51 percent were opposed, and 49 percent were in favor. In 1990, an initiative to increase sales taxes to fund drug enforcement and prevention was summarily dismissed: 68 percent against, 32 percent in favor. As we've mentioned, the only tax hike that passed by initiative in our study period was Proposition 99, which in 1988

raised taxes on cigarettes and tobacco. The voting behavior of the California electorate chimes with extensive national polling, which suggests that the American public wants the impossible combination of extensive government services and low taxes. Hence, even though Brown's tax hike is framed as an effort to "save the children," it looks like a heavy lift.

After strong initial showings in the polls (when voters were not focused on the stakes), the measure's public support had declined to a bare majority by midsummer.³⁰ As of this writing, polls indicate that many are uncertain as to how they will vote.³¹ Working against the electorate's historical aversion to tax hikes, though, are all the resources of the teachers' unions, which, as we have seen, have been rather successful on high-profile measures that are important to them. Therefore, this vote remains a close call.

As for the paycheck-protection proposal, history suggests that it will not pass, as it has failed by nearly identical margins (47 percent in favor, 53 percent opposed) twice before—most recently in 2005. In both cases, opponents of the measure vastly outspent and out-mobilized its supporters. This is occurring again this autumn: opponents, led by the unions, had raised twice as much money for the campaign as had supporters by mid-July. Still, this time around, a few factors may change voters' calculus. First, the dire condition of the state's finances is more readily apparent than ever before, and voters may make some connection between the power of public-sector unions and state spending. Second, the recent battles in Wisconsin have highlighted these issues nationally and served to inform citizens about the debate over unionized government. Third, corporate political activism is limited by the measure, which (as some liberal groups have complained) may increase support for it as a law that reins in all special interests, rather than targeting unions.³²

CONCLUSION

Public-employee unions have used the ballot process in California to stave off changes that they opposed and have occasionally won things that are very important to them. They exploit their inherent advantages over other interest groups in member turnout and get-out-the-vote operations. When they care about an item on the ballot, they are often the biggest spender—sometimes virtually the only one—on a campaign.

What is in the unions' interest is probably not in California's. Even if one of the viable tax-increase initiatives passes this fall, it will not likely solve the problems of the schoolchildren in whose name they are being offered. Pension commitments and other key drivers of California's fiscal problems will quickly gobble up the new revenues. Even though the measures are framed as a way to save public education in the state, little money is ultimately likely to be left over once the state pays other bills.

California's problem is a set of structural drivers of ever greater state spending, not a lack of revenue. Since 1996, state spending has more than doubled, from \$45.4 billion to over \$92.5 billion.³³ The drivers of this growth are benefits for existing government employees and retirees, Medicaid, the prison system, and the tax structure. Many of these costs are relatively fixed and thus constrain the ability of budget makers to do anything about them. Bond payments and pension contributions, for example, are largely untouchable. K–12 school funding is fixed at 40 percent of the general fund budget and is determined by a complex formula. More than half of the general fund budget is set on autopilot to increase government spending. Consequently, the solution offered in the ballot measures does nothing to address the real problem. Even if a tax increase passes this fall, we will not be surprised if California politicians are soon back to propose new tax increases in the very near future.

ENDNOTES

- ¹ Allysia Finley, "Gloria Romero: The Trials of a Democratic Reformer," *The Wall Street Journal*, August 31, 2012; Steven Malanga, "The Beholden State," *City Journal* 20, no. 2 (spring 2010); and Joel Kotkin, "The Golden State's War on Itself," *City Journal* 20, no. 3 (summer 2010).
- ² Richard J. Ellis, *Democratic Delusions: The Initiative Process in America* (Lawrence: University Press of Kansas, 2002).
- ³ "Jerry Brown's Tax Initiative Officially Qualifies for November," *The Sacramento Bee*, June 20, 2012, <http://blogs.sacbee.com/capitolalertlatest/2012/06/gov-jerry-browns-tax-initiative-officially-qualifies-for-november.html>.
- ⁴ Jon Ortiz, "Move Over Wisconsin—The Union Battle Is Beginning in California," *The Sacramento Bee*, June 10, 2012.
- ⁵ Troy Senik, "The Worst Union in America," *City Journal* 22, no. 2 (spring 2012).
- ⁶ This finding comports with the conventional wisdom in the academic literature that interest groups are better at blocking than at advancing their goals through direct-democracy procedures. For a good review of this literature and a contrarian's perspective based on data from California, see John M. de Figueiredo, Chang Ho Ji, and Thad Kousser, "Financing Direct Democracy: Revisiting the Research on Campaign Spending and Citizen Initiatives," *The Journal of Law, Economics, & Organization* 27, no. 3 (2011): 485–514.
- ⁷ Jon Ortiz, "Union Chips in \$2.5 Million to Fight Proposition 32," *The Sacramento Bee*, August 14, 2012, http://blogs.sacbee.com/the_state_worker/2012/08/union-chips-in-25-million-to-fight-proposition-32.html.
- ⁸ "Not Quite Greek, but Still Weak," *The Economist*, June 16, 2012; and William Voegeli, "Failed State," *Claremont Review of Books*, December 17, 2009.
- ⁹ "California governor calls for higher taxes, 4-day state workweek to fill \$16 billion gap," NBCNews.com, May 14, 2012, http://usnews.nbcnews.com/_news/2012/05/14/11697542-california-governor-calls-for-higher-taxes-4-day-state-work-week-to-fill-16-billion-gap?chromedomain=bottomline&lite.
- ¹⁰ Howard Bornstein et al., "Going for Broke: Reforming California's Public Employee Pension Systems," Stanford Institute for Economic Policy Research (April 2010).
- ¹¹ Edward Luce, "From the California Dream to a Cautionary Tale," *Financial Times*, June 10, 2012.
- ¹² According to the State Budget Crisis Task Force, "California, the most populous state in the country, has the largest number of Medicaid enrollees, 7.5 million. Among the six study states, it also has the highest percentage of its population enrolled in Medicaid, 29 percent. California has been able to roll a number of its state-funded health care programs into Medicaid, thereby gaining federal participation in funding of these programs. Even with the addition of federal funds, however, the state's annual spending per enrollee, \$3,364, is the lowest among the six study states and well below the national average of \$5,337; its Medicaid spending as a percent of state General Fund spending, 11.8 percent, is also well below the national average of 15.8 percent."
- ¹³ The number of signatures to get a measure onto the ballot must be equal to at least 8 percent of the total votes cast for governor at the last gubernatorial election.
- ¹⁴ Brown cited in George Skelton, "Gov. Brown's Proposed Tax Increase? Yes, It's about Pensions Too," *Los Angeles Times*, August 29, 2012, <http://articles.latimes.com/2012/aug/29/local/la-me-cap-pensions-20120830>.
- ¹⁵ Munger's proposition would raise taxes on a sliding scale, starting at \$7,316 in taxable income for single filers and \$14,632 for joint filers.
- ¹⁶ Some have argued that the school equity lawsuits that resulted in the *Serrano v. Priest* (1976) decision were a major factor in creating the conditions for the tax revolt and Proposition 13. As the source of school funding moved from local to state governments, California per-student spending on education fell to among the lowest in the nation. Proposi-

tion 98 was, then, partly a response to the new source of funds and sought to lock in a commitment from the state government. See William A. Fischel, "Did Serrano Cause Proposition 13?," *National Tax Journal* 42, no. 4 (December 1989): 465–74; and idem, "How Serrano Caused Proposition 13," *The Journal of Law & Politics* 12, no. 4 (fall 1996): 607–36. See also Martin R. West and Paul E. Peterson, "The Equity Lawsuit: A Critical Appraisal," in *School Money Trials: The Legal Pursuit of Educational Adequacy*, ed. West and Peterson (Washington, D.C.: Brookings Institution, 2007).

¹⁷ "The People's Will," *The Economist*, April 2011.

¹⁸ Much of the data was generously provided by John G. Matsusaka of the Initiative & Referendum Institute at the University of Southern California, <http://www.iandrinstitute.org>.

¹⁹ The coding method follows a study by Daniel J. B. Mitchell, who used the University of California Hastings College of the Law data set. See Mitchell, "Unions and Direct Democracy in California: A New Pattern Emerging?," *California Policy Options* (2008): 197–221. My research assistant, Andrew Marcum, did the first cut of coding. I then coded the measures. We agreed on over 90 percent of the coding decisions. When there was disagreement, it was usually over whether a measure deserved a partisan code or should be placed in the "other" category, not whether it was liberal or conservative.

²⁰ It should be noted that by attempting to concentrate solely on public-sector unions, some cases where public- and private-sector labor were at odds were overlooked. In addition, some nominally private-sector unions have local affiliates that comprise public-sector workers. Therefore, the reader should be advised that there is some static in the data.

²¹ In addition, the arguments themselves may cite groups that are either for or against the proposition.

²² Of course, another analyst might choose a few different propositions to be included in the list of the most important, but there is likely to be broad agreement on most of those included here.

²³ Quoted in Richard Lee Colvin, "Wilson Is Lampooned at Teachers Union 'Boot Camp,'" *Los Angeles Times*, August 26, 1998.

²⁴ Terry M. Moe, *Special Interest: Teachers Unions and America's Public Schools* (Washington, D.C.: Brookings Institution, 2010), 299.

²⁵ Senik, "The Worst Union in America."

²⁶ Moe, *Special Interest*, 298.

²⁷ Senik, "Worst Union in America." The state attorney general's authority over ballot titles stems from a 1974 measure, Proposition 9, which mandated the creation of a Fair Political Practices Commission.

²⁸ Myron Lieberman, *The Teacher Unions: How the NEA and AFT Sabotage Reform and Hold Students, Parents, and Teachers Hostage to Bureaucracy* (New York: The Free Press, 1997).

²⁹ Tom McGinty and Brody Mullins, "Political Spending by Unions Far Exceeds Direct Donations," *The Wall Street Journal*, July 10, 2012.

³⁰ David Siders, "Gov. Jerry Brown's Tax Measure Holds Uneasy Lead in the Latest Polling," *The Sacramento Bee*, June 9, 2012, 1A, <http://www.sacbee.com/2012/06/09/4549500/gov-jerry-browns-tax-measure-holds.html>.

³¹ "CBS 5 Poll: Obama Wins California, Feinstein Re-Elected, Voters Split on Props," <http://sanfrancisco.cbslocal.com/2012/09/12/cbs-5-poll-obama-wins-california-feinstein-re-elected-voters-split-on-props>.

³² "Good-Government Groups Call Proposition 32 Deceptive," *Los Angeles Times*, July 23, 2012, <http://latimesblogs.latimes.com/california-politics/2012/07/california-good-government-groups-call-proposition-32-deceptive.html>.

³³ Conn Carroll, "Welcome to California: America without Republicans," *The Washington Examiner*, July 13, 2012.

APPENDIX: Union Power in the State Legislature

The Democratic Party dominates California's legislature. In the past half-century, the Republican Party has had majorities on only one occasion in each of the two houses of the state legislature. The GOP's state senate majority lasted for two years, while the one in the assembly lasted less than a year. California's Democrats are closely allied with public employee unions in the state. As *Sacramento Bee* columnist Dan Walter has remarked, the Golden State's "public employee unions wield immense—even hegemonic—influence" over the Democratic majorities in the state legislature.¹ The control exercised by public employee unions was brought home to many when a 2010 video went viral. It showed an official of the Service Employees International Union (SEIU) in a legislative chamber telling elected officials: "We helped to get you into office, and we got a good memory... Come November, if you don't back our program, we'll get you out of office."² While Walters and other commentators have often remarked on the power wielded by public sector unions in the state legislature, it is worth taking a closer look at their role helping California's representatives get elected.

Electoral rules help reinforce connections between Democrats and the unions. California's gerrymandered legislative districts foster little meaningful competition between the political parties. What electoral competition there is in California takes place within the parties at the nomination stage. Whoever wins the primary contest in a so-called "safe district" usually walks away with the general election. Without party labels to guide voters, candidates turn to endorsements. Within the Democratic Party, the endorsement of the public sector unions looms above all others in importance. The unions offer both money and manpower to candidates they support. According to the *Los Angeles Times*, the California Teachers Association, the state affiliate of the National Education Association, "has deep pockets, a militia of more than 300,000 members to call on and a track record of making or breaking political careers."³

Public employee unions have distinct advantages over other interest groups in pressuring legislators. First, they have regular access to them through the collective bargaining process. Other interest groups must fight for such access. Second, they have a cadre of experienced activists that can be quickly mobilized for get-out-the-vote operations and protests on the steps of the state capitol. Third, the regular revenue streams provided by dues check-off and government collection of union dues allow the unions to finance extensive lobbying operations. Other groups must constantly struggle for resources and have greater difficulty maintaining a vigilant presence in Sacramento. Fourth, a number of California legislators are themselves former public employee union members. Other interest groups can only look upon with envy upon this network.

Finally, public employee unions are among the most active groups in California's electoral process. They are among the leaders in direct donations to candidates and make significant independent expenditures on behalf of their favorite sons and daughters. As Table 3 indicates, public sector unions are regularly among the top three donors to legislative candidates. In many of the years when the unions were the number two donor, they were only outpaced by general trade unions. In combination, public and private labor unions outspent the next largest contributor to candidates by two to one. (See Charts 3 and 4).

Furthermore, while other groups move up and down the donor rankings, depending presumably on the issues at stake in a given election year, public sector unions remain consistently at the top of the heap. Bear in mind that these figures only reflect the direct donation of public employee unions to candidates' campaign coffers. They do not include the independent expenditures the unions also make on behalf of candidates.

Public sector unions donate overwhelmingly to Democratic candidates (Table 5). Compare the year 2002 in tables 4 and 5. That year the unions gave 90

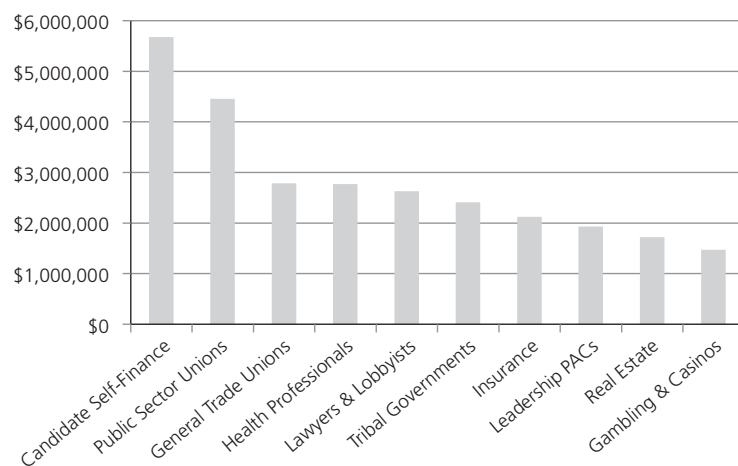
Table 3: Public Sector Union Contributions to California Legislative Candidates

Year	Institution	Public Union Donations	Industry Rank
2010	Assembly	\$4,621,651	2
	Senate	\$1,400,303	2
2008	Assembly	\$5,375,186	2
	Senate	\$2,084,619	2
2006	Assembly	\$5,166,673	1
	Senate	\$1,729,710	3
2004	Assembly	\$4,563,193	1
	Senate	\$1,597,413	2
2002	Assembly	\$4,599,908	1
	Senate	\$2,516,315	1
2000	Assembly	\$6,470,311	1
	Senate	\$3,644,876	1
1998	Assembly	\$4,455,135	1
	Senate	\$2,748,943	1

Source: National Institute on Money in State Politics.

Note: Candidate committees and party committees were excluded from industry rankings.

Chart 3: 2008 Donations to Assembly Candidates



percent of their donations to Democrat and 5 percent to Republicans. On the other hand, the finance, insurance, and real estate industries combined split their contributions nearly evenly between the parties, giving 53 percent of their contributions to Democrats and 45 percent to Republicans.

Beyond these aggregate figures, it is instructive to consider a few examples. Take the saga of the state's

charter school cap in 1998. California had a legal cap of 100 charter schools for the entire state. The teachers' unions were adamantly opposed to raising the cap and allowing more charter schools. Democrats in the state legislature, following the teachers' union line, refused to raise the cap. Reed Hastings, a Silicon Valley entrepreneur who later founded Netflix, financed a ballot measure to lift the charter cap with \$15 million of his own money.

Chart 4: 2008 Donations to state Senate Candidates

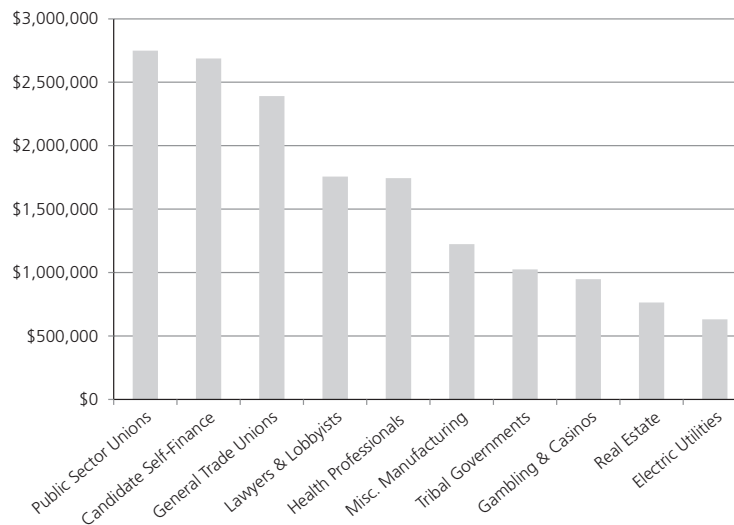


Table 4: Public Sector Unions Spending in California by Party

Year	Democrats	Republicans	Percent to Democrats	Percent to Republicans
2000	\$10,792,091	\$1,947,888	84.62 percent	15.27 percent
2002	\$19,525,527	\$1,245,378	89.62 percent	5.72 percent
2004	\$8,597,926	\$1,173,976	22.15 percent	3.02 percent
2006	\$21,543,755	\$829,914	60.85 percent	2.34 percent
2008	\$12,610,726	\$1,749,949	32.98 percent	4.58 percent
2010	\$17,605,436	\$1,133,823	38.47 percent	2.48 percent

Source: National Institute on Money in State Politics.
Note: Third parties excluded.

Table 5: Finance, Insurance, and Real Estate Spending in California by Party

Year	Democrats	Republicans	Percent to Democrats	Percent to Republicans
2000	\$10,423,745	\$8,874,711	54.01 percent	45.98 percent
2002	\$29,017,513	\$24,684,975	53.37 percent	45.41 percent
2004	\$12,008,805	\$14,850,949	19.66 percent	24.31 percent
2006	\$27,561,273	\$40,283,928	29.76 percent	43.50 percent
2008	\$10,046,434	\$19,234,152	19.60 percent	37.53 percent
2010	\$12,897,760	\$17,785,831	19.56 percent	26.97 percent

Source: National Institute on Money in State Politics.
Note: Third parties excluded.

The CTA was opposed to Hastings' move, as it would have to spend far more than \$15 million to defeat the measure, which would severely cut into the funds it had to spend on candidates in the gen-

eral election. In a series of private meetings, the CTA got Hastings to back off. It agreed to raise the cap by 100 schools the following year. Of course, neither Hastings nor the CTA alone had the legal authority

to change California law. Only voters or the legislature could do that. Yet the union and businessman brokered the deal nonetheless. Democrats were happy to raise the cap once the CTA blessed the idea. The legislature dutifully produced a bill conforming to the CTA's private agreement with Hastings and passed it into law.

Take another extraordinary example: the major expansion of public employee benefits in 1999 and 2001. The Service Employees International Union, California Correctional Peace Officers Association, and the California Teachers Association all strongly backed the election of Democrat Gray Davis in 1998. Davis came into office with solid Democratic majorities in both the state senate and assembly. Davis then signed Senate Bill 400, which increased state workers' retirement benefits by lowering the retirement age, re-jiggering the benefit formula, or both. The bill also granted a 6 percent boost in benefits

to those who had already retired and increased survivor benefits. The state's retirement fund, CalPERS, where the unions exercise some influence, claimed that: "[N]o increase over current employer contributions is needed for these benefit improvements."⁴ In the wake of this change, however, the pension fund earned far lower returns than were projected, forcing the state (i.e. taxpayers) to contribute some \$27 billion to make up the difference.

In sum, the Democratic Party handily controls all of California's electoral institutions. And the biggest contributors to that party in terms of direct donations, independent expenditures, and campaign foot-soldiers are public employee unions. The unions' influence in the legislature combined with their record of success in the Golden State's direct democracy process makes for a powerful one-two punch. The results have pushed the state's finances to the edge of a cliff.

¹ Dan Walters, "Democrats strengthen unions noose," *Orange County Register*, July 10, 2009. <http://www.ocregister.com/opinion/unions-19986-bankruptcy-public.html>

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