

S t a t e N e t
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Bloated Ballots



November 6, 2006

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The next issue of Capitol Journal will be available on November 13th.

Top Story

In addition to Congressional, gubernatorial and state legislative races, voters in 37 states this week will also weigh in on more than 200 ballot measures, making decisions on eminent domain, tobacco, gay marriage and the nation's strictest abortion law.

SNCJ Spotlight

Another banner year for ballot measures

Voters in many states may be spending more time than usual at the polls this Election Day, thanks to the number of weighty issues that have found their way to the ballot this year.

A total of 208 propositions are up for consideration in 37 states. That's a significant increase over 2004, when voters considered 164 ballot measures. What's more, 79 of the

propositions this time around are citizen initiatives, the third highest number in the last 100 years, according to the Initiative and Referendum Institute at the University of Southern CALIFORNIA. (There were 88 initiatives in 1914 and 93 in 1996.)

The states with the most crowded ballots are ARIZONA (19 measures), COLORADO (14), CALIFORNIA (13), SOUTH DAKOTA (11), NEVADA (10), OREGON (10), NEBRASKA (9) and RHODE ISLAND (9).

In terms of the hot issues this year, property rights tops the list. Spurred by last year's U.S. Supreme Court ruling (*Kelo v. New London*) granting governments the power to claim private property for private development, lawmakers and citizens in 14 states have placed measures on the ballot seeking to restrict such seizures. The measures in five of those states — ARIZONA, CALIFORNIA, IDAHO, MONTANA and WASHINGTON — go further, mandating compensation for “regulatory takings,” the devaluation of property through changes in land use regulations.

Another prevalent issue this year is the one that dominated in 2004: gay marriage. Nine states are looking to join the 15 that approved constitutional amendments in 2004 restricting marriage to heterosexual couples. One of those nine states, COLORADO, will also weigh a measure passed by the Legislature — Referendum 1 — that would grant same-sex couples the same legal rights as married couples.

In ARIZONA, NEVADA, and OHIO, the health and tobacco industries are backing dueling smoking bans, one far more strict than the other in each state. ARIZONA, CALIFORNIA, MISSOURI and SOUTH DAKOTA will also consider tobacco tax increases.

Up until about a month ago, it looked as though government spending limit measures — patterned after COLORADO's Taxpayers Bill of Rights — would figure prominently this year. But TABOR-like initiatives were removed from the ballot by the courts in four states, while the sponsor of a fifth measure, in OHIO, withdrew it after state lawmakers passed similar

The week in session

States in Regular Session: DC, MI, NJ, US

States in Informal Session: MA

States in Skeleton Session: OH

States in Perfunctory Session: OH

States in Special Session: WV

States in Recess: NY, PA

States in Special Session in Recess: DE “a”, PA “a”

States Prefiling or Drafting for 2007 Session: CO, FL, KY, MT, ND, NH, NV, VA

States Adjourned in 2006: AK, AL, AZ, CA, CT, CO, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

States in Special Session Adjourned in 2006: AK “b”, AK “c”, AR “a”, AZ “a”, CA “a”, CA “b”, CO “a”, IA “a”, ID “a”, KY “a”, LA “a”, MD “a”, MS “a”, MS “b”, OK “a”, OK “b”, OR “a”, OR “b”, TN “a”, TX “c”, UT “a”, UT “b”, VA “a”, WV “a”, WI “b”, WI “c”

Letters indicate special/extraordinary sessions
Source: State Net, 11/02/06

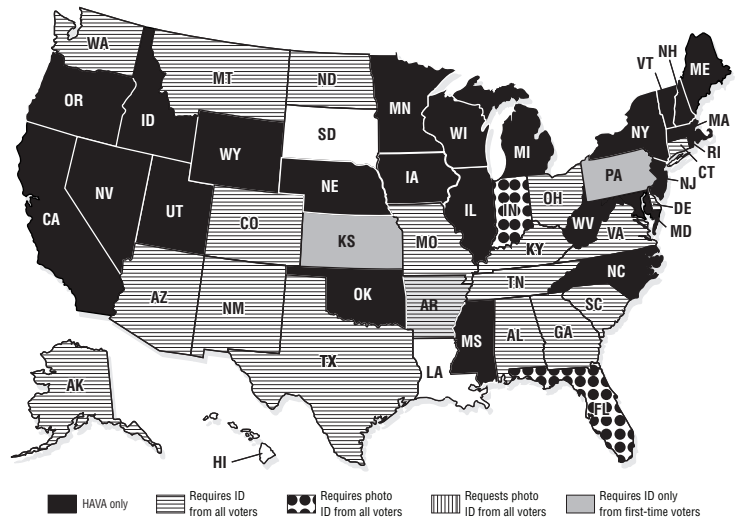
legislation. Still, spending-cap measures remain on the ballot in MAINE, MONTANA, NEBRASKA and OREGON.

The minimum wage is another issue that fizzled a bit this year. Progressive groups had sought to place minimum wage measures on the ballot in 11 states as a way to counterbalance the supposed turnout effect of gay marriage amendments. But the organizers were only successful in six states: ARIZONA, COLORADO, MISSOURI, MONTANA, NEVADA and OHIO.

Along with the trends, there are also a number of potential trend-setters this year. The most closely watched of them will undoubtedly be SOUTH DAKOTA's Referred Law 6, a referendum on the strict abortion ban passed by the Legislature earlier this year in an effort to challenge *Roe v. Wade*. A recent Zogby poll indicated the state's voters favored a repeal of the ban by a slight margin (47 percent to 44 percent), but the margin has narrowed over the past few months.

CALIFORNIA voters, meanwhile, will decide whether to impose a tax on oil production in the state in order to fund alternative energy development, with Proposition 87. The battle over that measure officially became the costliest in Golden State history last month, when supporters and opponents disclosed that they'd raised over \$104 million between them. As of September, the measure was a virtual toss-up, with a CALIFORNIA Field Poll showing 44 percent of likely voters favoring it and 41 percent opposed.

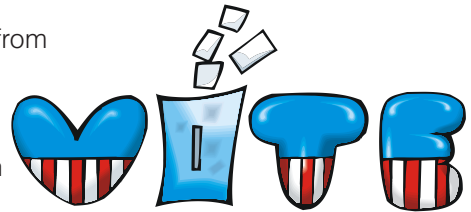
Bird's eye view



Source: Electiononline.org

More states push for voter ID

The reverberations from FLORIDA's historic voting mishaps during the 2000 presidential election continue to be felt around the nation.



Less than a dozen states that year made voters show identification before they were allowed to vote. But this year, voters in 24 states will have to provide some form of ID before casting a ballot, including two — FLORIDA and INDIANA — that will require a photo ID. Three more states — HAWAII, LOUISIANA and SOUTH DAKOTA — ask voters to show a photo ID, but will allow those without such documentation to vote if they sign an affidavit. Courts in GEORGIA and MISSOURI, however, struck down similar photo ID requirements. Meanwhile, 24 states adhere only to the federal Help America Vote Act (HAVA), which requires first-time voters who register by mail without an acceptable ID to show one at their polling site. Two states — KANSAS and PENNSYLVANIA — require identification only from first-time voters.



Finally, MICHIGAN’s Proposal 2 aims to prohibit the University of MICHIGAN and other colleges in the state from granting preferential treatment on the basis of race. Passage of the measure could reinvigorate the effort to outlaw affirmative action, which stalled after a couple of early successes, in CALIFORNIA and WASHINGTON. (IANDRINSTITUTE.ORG, STATENET.COM, NCSL.ORG, CHRISTIAN SCIENCE MONITOR, FIELD.COM)

— *Compiled by KOREY CLARK*

Budget & Taxes

OWENS’ TWO FACES ON TABOR: Opponents of an initiative in MAINE that would impose government spending limits like those of COLORADO’s Taxpayers Bill of Rights rolled out a TV add a couple of weeks ago featuring footage of COLORADO Gov. Bill Owens (R) asking voters of his state to suspend TABOR because it had created a fiscal crisis. The thing is, Owens also appears in an ad in support of MAINE’s spending cap measure. In that ad, he states that TABOR worked in COLORADO and will “no doubt” work in MAINE too.

The anti-spending-limits camp has seized on Owens’ contradictory statements, seeking to portray him as a two-faced politician who’s

“Governor Owens must think MAINE people are stupid.”

trying to deceive the voters of MAINE. “The political duplicity and hypocrisy is outrageous,” said Dennis Bailey, spokesman for the anti-TABOR group Citizens United. “Governor Owens must think MAINE people are stupid.”

But Owens’ spokesman, Dan Hopkins, countered that the governor has always supported TABOR and that he’d only sought a temporary suspension of TABOR’s provisions in order to help the state recover from the recession earlier this decade. “There is no duplicity here at all,” he said. (PORTLAND PRESS HERALD)

BUDGETS IN BRIEF: ALASKA Gov. Frank Murkowski (R) has called a special session to address a court order from last year mandating that the state provide employment benefits for gay partners of government employees. The session is scheduled for Nov. 13 (ANCHORAGE DAILY NEWS).

— *Compiled by KOREY CLARK*

Politics & leadership

DEMOS LOOK TO GAIN STATEHOUSE CONTROL: The stakes this Election Day couldn't be much higher. Not only is partisan control of the U.S. Congress up for grabs, but control of at least 14 statehouses as well.

Republicans currently hold majorities in both chambers of 20 state legislatures, while Democrats control both chambers in 19. The ten other partisan statehouses are split between the parties. (NEBRASKA's unicameral Legislature is nonpartisan.)

A shift of just five seats or less could cost Democrats their majority in the legislative chambers of seven states — COLORADO, KENTUCKY, MAINE, MONTANA, NORTH CAROLINA, OKLAHOMA and OREGON — while a shift of similar size in the chambers of seven others — INDIANA, IOWA, MICHIGAN, MINNESOTA, NEVADA, TENNESSEE and WISCONSIN — could do the same to Republicans.

Circumstances, however, appear to favor the Democrats. For one thing, history is on their side. The president's party has gained legislative seats in a mid-term election only once in the last 68 years. And that was in 2002, after the 9/11 terrorist attacks.

In addition, there's a reasonable chance that national discontent over the Bush administration's handling of the war in Iraq and the ethics scandals in the GOP-controlled Congress could filter down to the state races.

More substantively, there are simply more Democratic candidates than Republican ones running unopposed this year. According to the National Conference of State Legislatures, Democrats face no competition in roughly 64 percent of state House races and 56 percent of Senate races across the country, while only 36 percent of Republican House candidates and 44 percent of Senate candidates face no challenger.

But Democratic gains are hardly a certainty. The high-tech redistricting done after the 2000 elections has undoubtedly made some districts

“There is, I think, a general sense of dissatisfaction... that the country isn't going the right way, and in many places it's a vote against the Republicans — whoever's in control. It may affect the Democrats that way in places where they're in control.”



invulnerable to partisan takeover. And Democrats could find themselves the victims of voter discontent just as easily as Republicans. As NCSL Executive Director William Pound put it, “There is, I think, a general sense of dissatisfaction...that the country isn’t going the right way, and in many places it’s a vote against the Republicans — whoever’s in control. It may affect the Democrats that way in places where they’re in control.” (STATELINE.ORG)

POLITICS IN BRIEF: At least 10 states — **ARIZONA, COLORADO, CONNECTICUT, FLORIDA, INDIANA, MARYLAND, NEW YORK, OHIO, PENNSYLVANIA** and **WASHINGTON** — could see big trouble on Election Day, according to a report released two weeks ago by Electionline.org. The nonpartisan election reform clearinghouse says an incendiary combination of new voting-machine technology, confusion about voting procedures — due in some cases to recent litigation — and close races in those states makes them ripe for voting problems (WASHINGTON POST, ELECTIONLINE.ORG). • Adding fuel to the fire in one of the states, last week, the 6th U.S. Circuit Court of Appeals blocked an emergency order issued days earlier by a district court judge in **OHIO**, suspending the state’s ID requirements for absentee voting on the ground that they are vague and inconsistently applied by county election officials. It was unclear what would happen to the absentee ballots mailed in the interval between the two rulings (CLEVELAND PLAIN DEALER). • Seventy-four candidates for legislative office in **CALIFORNIA** who face no significant opposition have raised \$8.5 million in campaign funds. Government watchdogs allege the donations are nothing more than “government-access” payments, but major contributors contend the money enables the candidates to establish name recognition with voters and helps them cover other “officeholder expenses,” such as meals and travel (LOS ANGELES TIMES).

— *Compiled by KOREY CLARK*

Governors

MURKOWSKI’S BAD WEEK: Outgoing ALASKA Gov. Frank Murkowski’s (R) last month in public office is not going quietly. Last week, the state Public Offices Commission ruled Murkowski must repay the Last Frontier for using a state-owned jet to attend re-election campaign events during his unsuccessful primary campaign. Murkowski, who is leaving office in December after failing to secure the nomination for another term during the GOP primary in



August, admitted using the jet for several trips, but said they had a dual purpose as he was also conducting official state business. The Commission didn't buy it, ordering Murkowski to pay the cost of a first-class round-trip ticket for each campaign excursion he took on the plane.

That ruling came just days before a small group of lawmakers filed suit against Murkowski in an effort to block him from executing the draft contract he reached with oil giants BP, ConocoPhillips, and Exxon Mobil to develop North Slope gas reserves or from modifying the state's tax laws or lease terms without legislative approval. The suit was filed on behalf of the Legislature by eight members of the 14-member Legislative Council, a joint House and Senate panel that conducts legislative business between sessions. A Murkowski spokesperson denied the governor is planning to sign the contracts, calling the lawsuit "bizarre."

Murkowski also drew barbs from both sides of the aisle for calling a special session to deal with a state Supreme Court order to provide state workers with gay-partner employment benefits. Some lawmakers, including Sen. Ralph Seekins, a Fairbanks Republican who chairs the committee reviewing the proposed natural-gas pipeline contract, openly wondered if Murkowski's real intention in calling the special session was to force lawmakers to sign off on the pipeline deal. "I would hope that isn't the real purpose of this special session," Seekins said. "That contract was just totally unacceptable to the Legislature. It's going to take some major changes before it could be acceptable, and I haven't seen any progress toward that." (ANCHORAGE DAILY NEWS, SEATTLE TIMES)

CORZINE FAVORS CIVIL UNIONS, NOT MARRIAGE: NEW JERSEY Gov. John Corzine (D) informed state lawmakers that he favors a civil union statute for same-sex couples rather than legalizing gay marriage. Corzine was responding to the Garden State Supreme Court's recent ruling

In the hopper

State Net's database tracks tens of thousands of bills in all 50 states at any given time. Here's a snapshot of what's in the legislative works:

Number of 2006 prefiles last week:
23

Number of 2007 prefiles last week:
65

Number of 2006 Intros last week:
182

Number of bills enacted/adopted last week: 54

Number of 2006 prefiles to date:
21,447

Number of 2007 prefiles to date:
1,920

Number of 2006 Intros to date:
100,795

Number of enacted/adopted overall in 2006: 31,551

— Compiled By JAMES ROSS
(Measures current as of 11/01/06)
Source: State Net

that said while the state constitution does not guarantee homosexuals the right to marry, gay and lesbian couples are entitled to all the legal rights and financial benefits of their married heterosexual counterparts. The court gave lawmakers 180 days to craft a measure that either does allow same-sex couples to wed or expands the state's current domestic partnership laws to include civil unions for those couples. Corzine drew sharp criticism from a former campaign manager who is now the state's leading gay rights advocate. Steven Goldstein, who co-managed Corzine's 2000 Senate campaign and now heads the gay-rights group Garden State Equality, accused the governor of flip-flopping on what he says was Corzine's oft-stated preference for gay marriage over civil unions. Corzine, however, denied making any such pledge on gay marriage, contending he has "advocated on a consistent basis for civil unions." He did say, however, that he would sign a gay marriage bill if it comes across his desk. It doesn't seem likely that will happen any time soon. Senate President Richard J. Codey (D) said last week that lawmakers are probably not inclined to support a gay marriage bill, noting "It's more likely to be civil unions." Codey then waffled a bit on that as well, saying, "I couldn't at this point guarantee civil unions." (NEW YORK TIMES)

MANCHIN WANTS ENERGY INDEPENDENCE: WEST VIRGINIA Gov. Joe Manchin (D) said last week that he wants the Mountain State to be the first in the nation to be completely energy independent, a goal he believes the state can reach by 2030. Manchin ordered the state's Public Energy Authority to develop a blueprint to outline what kinds of new regulations, incentives and legislation would be necessary to make that happen. Officials there say such a plan would include a combination of conservation, wind and solar power, as well as developing technologies like coal gasification and liquefaction. (WTRF-TV [WHEELING])

SCHWARZENEGGER JUST SAYS NO TO 90: CALIFORNIA Gov. Arnold Schwarzenegger (R) announced his opposition to Proposition 90, an initiative on the Nov. 7 ballot that would restrict the use of eminent domain and require governments in some cases to pay for economic losses caused by laws and regulations. Schwarzenegger called the measure "a poorly written initiative that could cost taxpayers billions of dollars and could prevent the most basic use of eminent domain laws for vital roads, schools and construction." Voters in at least four other states will consider similar initiatives. (SACRAMENTO BEE)

— *Compiled by RICH EHISEN*

Hot issues

BUSINESS: Citing studies that show **CALIFORNIA** ranks 14th nationally in policies that encourage broadband deployment, Gov. Arnold Schwarzenegger (R) issues an executive order that will create a state task force to streamline permitting and speed up the construction of broadband networks in the Golden State. Task force members are expected to be named within a month (SAN JOSE MERCURY NEWS). • **PENNSYLVANIA** Gov. Ed Rendell (D) signs the “Price Gouging Act,” legislation that bars companies from selling goods or services at an “unconscionably excessive price” in a region where an emergency has been declared. The measure defines gouging as any fee that increases by 20 percent or more, beginning seven days prior to the disaster declaration. The restriction would then apply until 30 days after the end of the emergency unless merchants could demonstrate increased costs (PHILADELPHIA INQUIRER, PITTSBURGH BUSINESS TIMES).

CRIME & PUNISHMENT: The **NEW JERSEY** Supreme Court rules that accused murderers seeking to avoid the death penalty by claiming they are mentally retarded must prove that claim to a jury. The decision overturns a 2005 appellate ruling that made the Garden State the only one in the nation to require prosecutors to disprove mental retardation in order for execution to be a punishment option (STAR-LEDGER [NEWARK]).

EDUCATION: **VIRGINIA** education officials approve a new reading grade-level assessment for students with limited English skills to be used as an alternative for the standards reading test. The new system uses a portfolio of a year’s worth of work rather than a standard reading skills exam (RICHMOND TIMES-DISPATCH).

ENVIRONMENT: **NEW JERSEY** Gov. John Corzine (D) extends by 30 days a Garden State review of regulations on the hunting of black bears. Corzine also ordered state wildlife officials to review the state’s entire bear management program, all of which could end up blocking the state’s impending black bear hunting season, scheduled to begin in early December. Hunting enthusiasts have threatened to take the matter to court

Upcoming elections

(11/07/2006)

A complete rundown of elections in all 50 states can be found on the State Net Web site at www.statenet.com.



(STAR-LEDGER [NEWARK]). • **ILLINOIS** Gov. Rod Blagojevich (D) signs an executive order that requires state agencies to recycle computers, cell phones and any other electronics they discard (CHICAGO TRIBUNE). • **NEBRASKA** Gov. Dave Heineman (R) signs the Platte River Cooperative Agreement, a three-state plan intended to allow farmers and ranchers to comply with the Endangered Species Act while retaining their access to federal water, land and funding. **COLORADO** Gov. Bill Owens (R) had previously signed the agreement. **WYOMING** Gov. Dave Freudenthal (D) is still reviewing the plan, which will cost about \$317 million, with \$157 million coming from the Interior Department and the rest from the three states in cash, land and water (WASHINGTON POST). • **GEORGIA** officials add 121 species to the state’s list of protected plants and animals. Officials also removed 18 species, including the Eastern cougar, which is considered extinct in the Peach State (ALBANY HERALD). • **ARIZONA** regulators adopt rules that will require regulated electric utilities to generate 15 percent of their energy from renewable resources by 2025 (ARIZONA REPUBLIC).

Upcoming stories

Here are some of the topics you will see covered in upcoming issues of the State Net Capitol Journal:

- **Funding transportation**
- **Motorcycle helmet laws**
- **Animal rescues in disasters**

HEALTH & SCIENCE: **PENNSYLVANIA** Gov. Ed Rendell (D) signs SB 972, a measure which extends the state’s Mcare malpractice insurance abatement program for emergency medical personnel through 2007. Mcare will also increase abatements for those personnel to cover 100 percent of their malpractice premium (PENNSYLVANIA OFFICE OF THE GOVERNOR). • Still in **PENNSYLVANIA**, the House approves legislation that would expand the state’s subsidized medical insurance to allow coverage for children whose families earn up to 300 percent of the federal poverty level — about \$60,000 annually for a family of four. Those families would be required to pay part of the monthly premium. It moves to Gov. Rendell, who is expected to sign it into law (PITTSBURGH POST-GAZETTE).

SOCIAL POLICY: The **NEW JERSEY** Supreme Court rules that homosexual couples must be accorded the same legal rights as heterosexual married couples. The court did not, however, grant Garden State same-sex couples the right to legally marry. Justices instead punted the issue of marriage back to lawmakers, giving the Legislature 180 days to craft a measure that either allows gay marriage or creates civil unions that provide the same rights and privileges as marriage (WASHINGTON POST). • A



federal court upholds a lower court’s decision to block enforcement of a **SOUTH DAKOTA** law that requires doctors to tell women that abortions end human lives and may later cause serious psychological problems for the women who have them (BISMARCK TRIBUNE).

POTPOURRI: PENNSYLVANIA Gov. Ed Rendell (D) signs a measure that will require Keystone State lobbyists to disclose how much money they spend wooing lawmakers. The measure also forces lobbyists to register with the state (PHILADELPHIA INQUIRER). • **VIRGINIA** Gov. Tim Kaine (D) issues an executive order banning smoking in most state buildings and automobiles. The ban, which takes effect in January, exempts state prisons and mental hospitals, although directors of those agencies may also opt to honor the ban (RICHMOND TIMES-DISPATCH).

— *Compiled by RICH EHISEN*

Once Around the Statehouse Lightly

I**NTRUDER STRIKES AGAIN:** It’s been an interesting few weeks for Max Linn, the Reform Party candidate for governor of FLORIDA. First, he made an emergency landing in a small plane on an interstate near Orlando. Then, last week he crashed a debate that had been scheduled between Republican Charlie Crist and Democrat Jim Davis. Linn was able to insinuate himself into the debate, reports the *Miami Herald*, thanks to a court order. The varied publicity has helped Linn soar in the polls — from 1 percent to 2 percent. Pundits, pawing through the tea leaves, point in all directions. Some claim Linn’s surge helps Crist; others, just as emphatically, insist Linn helps Davis.

FINAL SCENE: When all the votes had been counted, the two candidates for a seat on the Aleutian Region School District each had 19 votes. So, local officials decided the race in the manner prescribed by ALASKA law — they flipped a coin. Only one problem, notes Reuters News Service. The winner of the toss, Katherine Dunton, died of cancer in October. Local officials aren’t quite sure how they will resolve the situation.



The choices seem obvious. One, spend money to hold another election. Or, two, let the other candidate with 19 votes serve out the term.

SLOGAN OF THE WEEK comes from ILLINOIS, where a write-in candidate for governor wants voters in his state to “Get Nieuked.” Tim Nieukirk has no chance to win the election, but the *Quad City Times* reports that, if nothing else, the 25-year old tyro has injected a little levity into the campaign. All of his advertising has been carried on MySpace.com and YouTube.com, including one showing him under the covers with a pretty woman. A narrator tells the viewer that Nieukirk would never climb into bed with special interests. Instead, the ad proclaims, “He’s in bed with your sister.”

SNUB OF THE WEEK comes from IDAHO where Amanda Rammell refused to be photographed with Governor Jim Risch. According to the *Idaho Statesman*, Rammell’s actions stem from a legal dustup involving her father. Last summer, Risch ordered Idaho officials to destroy 160 elk that had escaped from her family’s ranch, and her father was arrested during the incident for battery and obstructing justice. Why would Rammell and the governor be photographed together in the first place? Tradition. Last week Amanda Rammell was named Miss Idaho USA.

FLAMING FIREWALLS: News organizations don’t like to appear too cozy with public officials. How else can they objectively report news about government and politics? That objectivity might become something of a problem in Brownsville, a central OREGON town of 1,500 souls where the relationship between press and government could get schizophrenically cozy. According to the *Corvallis Gazette-Times*, a candidate for mayor of Brownsville is Don Ware. The editor and publisher of the *Brownsville Times* is...Don Ware. Ware says his dual role does not pose a problem. Another reporter, he says, will cover city government. And submit his or her work to which editor?

CALL US FOOLISH, but when faced with incompetence by public officials, our first instinct is *not* to give those same officials a blank check on the local treasury. Yet that is what voters in Sacramento, CALIFORNIA, are being asked to do. A measure on tomorrow’s ballot authorizes a quarter-cent sales tax increase, while a second measure “advises” city and county officials to spend a huge chunk of the tax revenue on a new arena for the area’s pro basketball team — the NBA

Kings. Unfortunately, the public who will spend the tax are the same folks who have conducted such a bizarre campaign to pass the tax. For instance, voters were not even given details of a proposed arena deal until forced to by a court only one week before the election. Not only that, it is a deal that the Kings ownership has twice rejected. So voters must go to the polls without a clue how their money will be spent.

— *By A.G. Block*

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