Ballot initiatives — taking a rail transportation system’s future funding directly to voters — has been, in recent election cycles, a clear and successful linchpin in the rail transit investment reality. The numbers paint a positive tale: In 2012, voters passed transportation ballot initiatives (Note: not all of these were directly passenger rail-related — ed.) at a 79 percent rate. Within this success, however, two particular failures in California, in Alameda and Los Angeles Counties, shed light on just how difficult it can be to win the type of investment needed to fund passenger rail improvements. What makes these two passenger rail ballot initiative failures significant is that each failed with the support of more than six out of 10 voters — each needed a supermajority of two-thirds to pass.

In Los Angeles County, Measure J would have added an additional 30 years of a half-cent sales tax passed in 2008 (Measure R), taking the life of the increased revenue from 2039 to 2069. Measure J was designed to boost available revenues from which to raise bonds against immediately and thus hasten regional transportation development — including passenger rail build outs. After all the votes had been counted, Measure J lost with 65.66 percent of the voters in support. It fell short by 16,000 votes.

Alameda County’s Measure B1 would have doubled the local sales tax to a full cent, thus raising an additional $7.8 billion over 30 years for all forms of surface transportation projects, again including passenger rail. Measure B1 failed with 66.53 percent of voters in favor.

“It missed passage by 721 votes,” says Steven Wallach, a lobbyist and policy analyst in Sacramento.
Supermajority Rules

The necessity of a super majority in California for sales tax increases goes back to the state’s passage of Proposition 13 in 1978. With a specific intent of limiting property taxes — thus the name, the People’s Initiative to Limit Property Taxation — Prop 13 amended the California State Constitution to, among others, require a super majority in local elections seeking to increase special taxes.

Still, because Proposition 13’s focus was largely on property taxes, California sought to further ensure that voters had to approve all forms of taxes and tax increases. Proposition 218 was passed into law in 1996 — thus further amending the California State Constitution — to do just that.

The initiative process has been in place in California since 1911, and though many states use voter initiatives and propositions, the Golden State is often seen as one in which the process has run amok. Since 1978 and Proposition 13, voters in California have, literally, passed hundreds of initiatives — both mandating spending and cutting off revenues. In Fiscal Year 2010, for example, nearly a third of all spending in California, the world’s 12 largest economy, was locked in by voter initiative.

The very concept of governance via voter-driven ballot initiative is one that took root largely in Western states around 1900. These states and their voters — with the notable exceptions of Hawaii and New Mexico — embraced initiatives as a progressive check against big corporations and their influence on government. In recent years, it has become a staple of governance, with mixed results. For passenger rail transportation, the results in California last November highlight the perils of ballot initiatives.

Measure J

In a recent interview with the Center for Transit Excellence (an outstanding source of information on all forms of community and public transportation and elections — ed.), Move LA Director of Policy and Communications, Gloria Ohland, provided a succinct explanation for Measure J’s failure: “The real issue is the high threshold of two-thirds of the voters, which is a real problem, especially when 30 percent of voters regularly say ‘no’ to ballot measures. “

The campaign for Measure J — in stark contrast to the successful effort to pass Measure R four years earlier — got off to a late start as Governor Jerry Brown didn’t authorize the

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KEY: ACCELERATED COMPLETION DATE (APPROXIMATE) | # OF YRS ACCELERATED (APPROXIMATE) | ORIGINAL COMPLETION DATE
measure until Sept. 30, 2012. That left just six weeks for the campaign.

“It should have gotten off the ground sooner, though this was impossible for a variety of reasons,” said Ohlund to CFTE. “When you have to get a two-thirds majority even small things can mean the difference between defeat and victory.”

With the tight turnaround, Move LA’s strategy was based largely on expensive television advertisements that focused on Measure J’s local benefits of jobs and traffic relief. Fundraising in this environment was crucial as was voter turnout. The fact that both Measure R and Measure J were put before voters in presidential elections is no coincidence as these contests bring out the type of turnout necessary to approach the two-thirds vote necessary for passage.

“There is strong support among the electorate for broad-based local taxes to build transportation projects — the 66 percent vote shows very strong support,” said Ohlund to CFTE. “We believe voters throughout the county still support smart infrastructure investment and that California’s two-thirds voter approval requirement is an unreasonable threshold that thwarts public will, and that is a problem that needs to be addressed.”

News broke in early October that a new form of Measure J may be working its way back onto the next ballot. Los Angeles Metropolitan Transportation Authority officials have contacted Council of Governments in Los Angeles County’s 88 cities seeking to better understand what it might take for each to support a new version of the tax proposal.

Measure B1

Likewise, the effort to fund all forms of surface transportation infrastructure in Alameda County will continue.

“Oh yes, these concepts will come back,” says Alameda County Transportation Commission (ACTC) Deputy Director of Planning and Policy Tess Lengyel. “The discussion is what to go back to voters with, and 2014 is under consideration.”

The need, according to Lengyel, is too great:

“With the reality of the transportation funding situation in DC, these types of measure can be the life blood of the type of infrastructure investment we need here in California.”

Though it only failed by 721 votes last November, proponents like Lengyel have nonetheless attempted to learn from the setback. Lengyel identifies two potential reasons, though only one is within advocates’ control.

“We think adding a sunset date to the tax will help,” she says. “People might be more likely to support something if they know it has a set end date.”
Secondly, Lengyel admits that many voters in Alameda County and elsewhere in California might be suffering from tax measure fatigue. In some cities in Alameda County, voters were confronted with 18 ballot measures — one of which was B1. And many of these measures dealt with important issues like education and health care.

“Competing tax measures didn’t help,” says Lengyel. “But there will always be competing tax measures here.”

The Will of the People
Regardless the political machinations and election day challenges, the will of the people of both Los Angeles and Alameda Counties just more than a year ago was clear — they want passenger rail and are willing to invest in it. The necessity of the super majority, clearly, will not stand in the way of the local advocates and leaders working tirelessly to advance passenger rail. And once rail has won with voters at these artificially high levels, one can only hope that the backsliding most recently seen in Cincinnati, where rail opponents need only win once at the polls while rail must win continuously throughout its development, can be avoided.

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