

Voting Guide to Arizona Ballot Propositions

November 6, 2012
General Election

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This voting guide is intended to educate interested voters in the ballot propositions to be placed on the November 2012 General Election ballot in Arizona.

Nothing in this document should be construed as an endorsement or opposition to any particular ballot proposition.

Rather, diligent care was taken to objectively describe each ballot proposition and to provide the typical arguments used by proponents and opponents, respectively.

In the unlikely event there is a discrepancy between the actual ballot proposition and the information contained herein, the actual ballot language shall take precedence.

Ballot Propositions

Under the Arizona Constitution, the Arizona Legislature and citizens have the right to place propositions on the General Election ballot to make changes to either the Arizona Constitution or Arizona Revised Statutes.

A referendum is a ballot proposition that has been placed on the ballot by the Arizona Legislature. Unlike other legislation, a referendum does not go to the Governor for approval or veto. Rather, if a majority of the Arizona House of Representatives and Arizona State Senate pass the legislation, the measure is automatically placed on the ballot.

An initiative gives citizens the same right as the Arizona Legislature to place an issue on the ballot, provided that the citizens collect enough valid signatures from registered voters to qualify. The Arizona Secretary of State, in coordination with the County Recorders in each of Arizona's 15 counties, determines whether an initiative has enough valid signatures to qualify for the ballot.

Important Dates

Individuals have until October 9th to register to vote in order to participate in the November 6th General Election.

Vote by Mail begins on October 11th.

November 6th is Election Day.

PROPOSITION 114

Yes No

CRIME VICTIM PROTECTION ACT OF 2012

Under Proposition 114, the Arizona Constitution would be amended to provide that a crime victim is not liable for damages incurred by a person who was harmed while attempting, engaging in or fleeing from conduct that is classified as a felony offense. [Analysis provided by the Arizona Legislative Council].

Proponents of Proposition 114 may assert that an individual committing a crime has the legal right to sue their victim if they are hurt in the process of committing the crime. According to proponents, the ballot measure would eliminate such a legal right for criminals and protect crime victims from damage claims.

There is no known opposition to Proposition 114 at this time.

PROPOSITION 115

Yes No

THE JUDICIAL DEPARTMENT

Under Proposition 115, the Arizona Constitution would be amended to make the following changes relating to the selection and retention of

state judges and justices:

1. The terms of state Superior Court judges would be extended from four years to eight years; the terms of state Court of Appeals judges and state Supreme Court justices would be extended from six years to eight years.

2. The mandatory retirement age for state judges and justices would be extended from seventy to seventy-five.

3. The Governor would appoint four attorneys to each nominating commission and the president of the State Bar of Arizona would appoint one attorney to each nominating commission. Currently, the State Bar of Arizona nominates and the Governor appoints all five-attorney members of each commission.

4. The minimum number of judicial nominees to be submitted by a nominating commission to the Governor for a judicial vacancy would be increased from three to eight, and the limitations on the number of nominees from a particular political party would be repealed.

5. If more than one vacancy exists in the same court at the same time, the nominating commission would be required to submit at least six judicial nominees for each vacancy, and could not submit the same nominee for more than one vacancy. The Governor would be allowed to appoint any of the nominees submitted for any of the vacancies in that court.

6. The Supreme Court would be required to make opinions and orders of state judges and justices available electronically on the Supreme Court website, unless the opinion or order is sealed or confidential pursuant to law.

7. Sixty-days before the general election for the retention of state judges and justices, a joint legislative committee would be authorized to meet and take testimony on the state judges and justices who are up for retention. [Analysis provided by the Arizona Legislative Council - modified due to space limitations].

Proponents of Proposition 115 may assert that the measure requires more choices and greater transparency regarding the selection and retention of appointed judges. Proponents further assert that the measure is a compromise that preserves judicial independence and impartiality while insuring accountability through a Judicial Performance Review System. Lastly, the retirement age for judges will be increased from 70 to 75, allowing seasoned and experienced judges to remain on the bench and

avoid forced retirement, according to proponents.

Opponents of Proposition 115 may assert Arizona voters approved the judicial merit selection system in 1974 to ensure that judges would be independent and non-partisan. According to opponents, the measure will allow for increased political control of the judicial selection process by the Governor and, as a result, decreases the independent nature of the judicial system in Arizona.

PROPOSITION 116

Yes No

SMALL BUSINESS CREATION ACT

Under Proposition 116, the Arizona Constitution would be amended to allow the state to exempt from taxation the "full cash value" of equipment and machinery or "personal property" used in agriculture or in a trade or business, up to an amount equal to the annual earnings of fifty workers in this state. This exemption would apply to equipment and machinery initially acquired beginning in the 2013 tax year. To determine the amount of the exemption, the state would designate a national measure of employee earnings, which would be adjusted annually.

Under current Arizona law, the first \$50,000 of full cash value of a taxpayer's equipment and machinery used in agriculture or in a trade or business is exempt from tax. The amount is adjusted annually for inflation, and is currently set at \$68,079. The current exemption would continue to apply to equipment and machinery initially acquired before the 2013 tax year.

"Full cash value" refers to the market value of property unless a specific formula for valuing property for tax purposes is set out in law.

"Personal property" refers to property that is not part of real estate and includes such things as machinery, equipment and store fixtures. [Analysis provided by the Arizona Legislative Council].

Proponents of Proposition 116 may assert that the measure will encourage economic expansion through job creation and capital investment.

There is no known opposition to Proposition 116 at this time.

PROPOSITION 117

Yes No

LIMITATIONS ON PROPERTY TAX ASSESSED VALUATION

Under Proposition 117, the Arizona Constitution would be amended to cap the annual increase in the value of real property used to calculate property taxes to 5% over the value of the property for the previous year, beginning with the 2015 tax year. Currently, there is no limit on full cash value. This limitation would apply to property values used in determining all property taxes on the real property. [Analysis provided by the Arizona Legislative Council].

Proponents of Proposition 117 may assert that the measure will protect property taxpayers from dramatic increases in property valuations that often lead to significant tax increases by limiting annual assessed value growth to 5%. According to proponents, a reasonable limit will not only provide greater predictability for taxpayers, it will bring much needed stability to future local government budgets.

Opponents of Proposition 117 may assert that the measure only caps appraisal values. Therefore, opponents argue that governmental bodies can merely increase the tax rates to make up the difference. Because the implementation of appraisal caps always shifts taxation away from higher appreciating property to lower appreciating property, developers and large land owners will have some of their tax burden shifted over to owners of houses in medium and low income neighborhoods, according to opponents.

PROPOSITION 118

Yes No

ESTABLISHMENT OF PERMANENT FUNDS

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act, allowing Arizona to become a state and granting Arizona approximately 10.9 million acres of land, referred to as "state trust land". The state land trust produces revenue for various public institutions in this state (schools, colleges, prisons, etc.).

Under Proposition 118, the Arizona Constitution would be amended to provide that for fiscal years 2012-2013 through 2020-2021, the annual distribution from the state trust land permanent funds to the various public institutions would be 2.5% of the average market values of the fund for the immediately preceding five calendar years. After fiscal year 2020-2021, the distribution formula would return to the current formula set out in the Arizona Constitution: average total rate of return for the previous five fiscal years, less percentage change in inflation, multiplied by the average market value over the previous five years. [Analysis provided by the Arizona Legislative Council].

Proponents of Proposition 118 may assert that measure allows for a simplification of the formula for education funding, ensuring that money will be distributed to support K-12 education each year from Arizona's Permanent Land Endowment Trust Fund without new taxes and no additional obligations for new spending. Because of the inadequacy of the current formula used to distribute earnings from the Endowment, K-12 education received no money in 2010, according to proponents.

There is no known opposition to Proposition 118 at this time.

PROPOSITION 119

Yes No

STATE TRUST LAND EXCHANGE

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act, allowing Arizona to become a state. The Enabling Act granted Arizona approximately 10.9 million acres of land, referred to as "state trust land". The state land trust is intended to produce revenue for various public institutions (schools, colleges, prisons, etc.). The state can lease or sell trust land, and the natural products (timber, minerals, etc.) of the land, only to the "highest and best bidder" at public auction.

In 1936, Congress amended the Enabling Act to give Arizona more flexibility in managing and disposing of trust land by allowing the state to exchange trust land for other public or private lands. Arizona did not amend its state Constitution to incorporate that authority for land exchanges. The Arizona Supreme Court has determined that without amending the Arizona Constitution, the state cannot conduct land exchanges.

Under Proposition 119 the Arizona Constitution would be amended to allow the state to exchange state trust land for other public land, provided that the purpose of the exchange must be to either assist in preserving and protecting military facilities in this state from encroaching development or to improve the management of state lands for the purpose of sale or lease, or conversion of state land to public use. [Analysis provided by the Arizona Legislative Council - modified due to space limitations].

Proponents of Proposition 119 may assert that the measure will facilitate land exchanges between the State Land Department and federal government for the limited purposes of protecting military facilities and the proper management, protection and public use of state lands.

There is no known opposition to Proposition 119 at this time.

PROPOSITION 120 <input type="checkbox"/> Yes <input type="checkbox"/> No
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STATE SOVEREIGNTY

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act, allowing Arizona to become a state. The Enabling Act also granted Arizona approximately 10.9 million acres of state trust land, subject to certain terms for the management, operation, use and disposition of those trust lands.

Under Proposition 120, the Arizona Constitution would be amended to declare Arizona's sovereign and exclusive authority and jurisdiction over the air, water, public lands, minerals, wildlife and other natural resources within the state's boundaries. Specifically excluded from this declaration are Indian reservations, lands of the United States and federal "forts, magazines, arsenals, dock-yards, and other needful buildings" obtained for federal government purposes, as required by the U.S. Constitution.

Proposition 120 also would amend the Arizona Constitution to repeal Arizona's disclaimer of all right and title to public lands within the state (except Indian reservations) and to repeal Arizona's consent to provisions of the Enabling Act.

Proposition 120 would declare that each state possesses full attributes of sovereignty on an equal footing with all other states, as provided

by the United States Constitution, and that state sovereignty is fundamental to the security of individual rights, free government and the inherent political power of the people. [Analysis provided by the Arizona Legislative Council].

Proponents of Proposition 120 may assert that the measure gives the State of Arizona exclusive authority and jurisdiction over the federal government involving management of public lands and natural resources.

Opponents of Proposition 120 may assert that the measure intends to gain control of national parks, forests, monuments, and wildlife refuges in Arizona and undermine protections provided by federal laws, such as the Clean Air Act, the Endangered Species Act, and the Clean Water Act. According to opponents, the fiscal impact to the state and the tax burden on state taxpayers would be enormous. Moreover, opponents assert that the measure potentially violates the law that granted Arizona Statehood, the Arizona-New Mexico Enabling Act (1910).

PROPOSITION 121 <input type="checkbox"/> Yes <input type="checkbox"/> No
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OPEN ELECTIONS/OPEN GOVERNMENT ACT

Under Proposition 121, the Arizona Constitution would be amended to eliminate the longstanding primary election that allows each recognized political party in Arizona to select its own nominee for the general election. In its place would be a primary election system in which registered voters may vote for candidates regardless of political affiliation.

Proposition 121 would not apply to the election of United States President, nor to any office for which political party affiliation may not appear on the ballot. [Analysis provided by the Arizona Legislative Council - modified due to space limitations].

Proponents of Proposition 121 may assert that the measure allows all voters to vote in an open primary for the candidate of their choice in state elections, regardless of their party affiliation. According to proponents, elected officials would no longer be able to win by addressing narrow minority groups inside partisan primaries, thereby increasing responsibility to all voters and not political partisans.

Opponents of Proposition 121 may assert that the measure will cause voters to have less access and less connection to their government because the top-two system discourages voter participation. Opponents have argued that in states that have a top-two system, voter turnout has decreased. According to opponents, this measure may increase voter deception by making it a constitutional right for any individual to self-describe themselves on the ballot without checks and balances for accuracy and fraud.

PROPOSITION 204

Yes No

QUALITY EDUCATION AND JOBS ACT

The temporary state sales tax rate of 6.6 percent enacted on May 28, 2010 expires on May 31, 2013, resulting in a decrease of the sales tax rate to 5.6 percent. Proposition 204 would permanently increase the state sales tax rate by one cent per dollar beginning June 1, 2013, to a rate of 6.6 percent. The proposition anticipates the tax increase to generate at least one billion dollars.

Proposition 204 also would require the Legislature to annually increase specific components of the school finance formula. In addition, Proposition 204 would provide that the specified funding levels for the state's kindergarten-through-twelfth-grade and state university systems cannot be reduced below the levels for fiscal year 2011-2012 or 2012-2013, whichever is greater, that limits on school district bonds and overrides cannot be below those in effect for 2012, that vehicle license tax and related highway user revenues cannot be diverted for any other purpose and that the sales tax base applicable to the proposed one cent sales tax increase cannot be adjusted in a way that causes the amount of sales tax collected to be less than the amount collected in the prior year, plus six per cent, unless there is a corresponding change in the tax base that results in no reduction in the amount of sales tax collected. The Legislature would not have the ability to adjust the new tax increase disbursements under any circumstances.

Proposition 204 would annually distribute the first one billion dollars of additional sales tax for various education related programs, transportation infrastructure projects, public and private entities that support families with household income 200% below the federal poverty level and university scholarship and infrastructure needs. [Analysis provided by the

Arizona Legislative Council - modified due to space limitations].

Proponents of Proposition 204 may assert that the measure permanently extends the current temporary one-cent sales tax previously approved by voters and establishes a long term, stable, and protected, revenue source with 80% of the funds dedicated to education. According to proponents, the ballot proposition purposely prevents the Legislature from being able to use the generated funds for a different purpose than what is provided for in the measure.

Opponents of Proposition 204 may assert that Arizona does not need more budgeting by the ballot box, nor do we need to further hamstring the Legislature. According to opponents, the measure makes permanent budget decisions that tie up billions of taxpayer dollars on the belief that neither the economy nor the state's priorities will ever change.

How to Register to Vote

Register to vote on-line at:
www.servicearizona.com/webapp/evoter/

Additional Resources

For full text of the propositions, the analysis provided the Arizona Legislative Council and the Joint Legislative Budget Committee and a complete listing of all submitted arguments for and against a proposition, please go to the Arizona Secretary of State's website at:

www.azsos.gov/election/UpcomingElections.htm
Click on: "General Election Information"

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