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CALIFORNIA ELECTIONS

Initiative Could Undermine State Bond Issues

A measure to restrict use of eminent domain would hinder construction under Props. 1A to 1E, critics say.

By Evan Halper
Times Staff Writer

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SACRAMENTO — Backers of the \$37 billion in public works bonds on the November ballot are anxious about how Californians are going to vote — but not on their own proposals.

A measure that will appear a few notches down the ballot threatens to undermine the package hatched by the governor and Legislature to shore up levees, repair and expand freeways, and build schools and affordable housing.

Even if voters approve the borrowing measures — Propositions 1A through 1E — proponents say infrastructure improvements could be stymied if Proposition 90 also passed. That measure, sponsored by property rights advocates, would restrict the government's ability to seize homes and businesses for development.

Local governments, school districts, water agencies, transportation authorities and housing groups have been studying the potential effect the property rights measure would have on their ability to move ahead with projects envisioned in the public works package. Many have concluded that it would throw their plans into disarray.

"It will impact our new school construction and modernization program enormously," said Michelle Meghrouni, an attorney with the Los Angeles Unified School District, which hopes to use the bond money to help build about 85 schools in coming years. "Our program could be derailed indefinitely."

The California Transportation Commission, a government agency, adopted a resolution opposing the measure after staff members warned that it would hamper road building in a number of ways.

The California Department of Transportation, meanwhile, estimates that the cost of acquiring land for roads would increase by as much as 50% — a figure some private consultants say is optimistic. They project that land costs would more than double.

Even plans to shore up the state's aging levees could be affected. The California chapter of the American Society of Civil Engineers passed a resolution warning that the measure would "delay and could even prevent the construction of many planned infrastructure projects," including flood

control efforts.

Proposition 90 would entitle many landowners forced by the government to sell their property to significantly more compensation. A farmer forced to sell land for a freeway, for example, could demand a price equal to what the land would be worth after construction was done and the area was rezoned for such things as fast-food restaurants or apartment buildings.

The measure also would change the negotiating process for such sales, requiring the government to convince a jury that projects involving land acquisition were justified before construction could begin. Another provision would require that property owners be paid for losses they incurred because of new government rules.

Backers of the property rights measure say their opponents are exaggerating its potential effect. They say their plan is designed to protect Californians from unreasonable government seizures of land, not to hold up infrastructure investment.

"The other side has been putting out intentional misinformation," campaign spokesman Kevin Spillane said. "They have made countless false claims and have repeatedly asserted [the measure] will do things that it won't. They are trying to whip up hysteria."

Opponents of Proposition 90 include many of the groups that pushed to get the bond package on the ballot, including the California Chamber of Commerce, the California Business Roundtable and the League of California Cities.

Spillane accuses the league and other organizations funded with local government money of illegally spending millions of taxpayer dollars in their campaign against the measure. The groups say the charge is untrue, pointing to campaign records that show the funds were raised from private donors.

Independent analysts who have studied Proposition 90 say that, depending on how courts might interpret the initiative, its effect on public works spending could be significant.

"There is no doubt that this would complicate almost everything state and local governments do to an extraordinary degree," said Michael B. Teitz, a senior fellow at the Public Policy Institute of California.

He said that since a similar measure was approved in Oregon, property owners have filed 40,000 lawsuits against local governments, paralyzing the planning process.

Teitz says it is possible, for example, that California property owners could sue for damages any time that cities and counties revised regional planning documents. Those documents are the blueprints for many projects that would get money from Propositions 1A through 1E.

"There are a lot of unknowns about how this would play out with the bonds," he said.

The \$37-billion bond package landed on the ballot after negotiations between the governor and lawmakers that dominated much of the most recent legislative session.

Their final agreement includes \$19.9 billion for roads, public transportation, air quality improvements and disaster preparedness; \$2.8 billion to encourage development of low-income housing and shelters for battered women; \$10.4 billion to build and repair local schools, charter

schools and public college and university facilities; and \$4.1 billion for levee repair and other flood control and management projects.

Though polls show mixed views on the infrastructure package, some surveys suggest that voters support most of the measures. Gov. Arnold Schwarzenegger is stumping for them; the campaign behind the effort has millions in the bank; and there is no organized, funded opposition to the measures.

Many of the business, labor and government groups that support the bond package oppose the property rights measure, which was put on the ballot by conservative and libertarian activists and has been endorsed by the Howard Jarvis Taxpayers Assn.

Polling data on Proposition 90 has been limited, but a Field Poll in August showed that the small share of voters who had heard about it liked it. Analysts say people are particularly attracted to the idea of reining in the government's ability to condemn private property and then turn it over to developers.

In recent years, there have been some high-profile cases involving property owners being forced off their land to make way for shopping malls, auto dealerships and "big box" stores.

In 2002, the Orange County city of Cypress attempted — unsuccessfully — to take land owned by a church to make room for a Costco store.

Spillane says that although bureaucrats claim that Proposition 90 would undermine their ability to build freeways, mass transit and levees, what really concerns them is they would no longer be able to use the power of eminent domain to give land to private developers.

"The establishment of entrenched special interests and government agencies has launched a coordinated campaign of distortion," he said.

But many of those involved in building public works projects say it is Proposition 90 supporters who are not being straight with voters.

"It's a deception," said Andrew Rausch, a San Diego attorney who specializes in acquiring land for government projects. "They pitch the thing as, 'We are just trying to stop inappropriate use of eminent domain. We don't want to interfere with public works projects.'"

"But the reality of the way they wrote it," he said, "is it would have a huge impact on those projects."

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