

CALIFORNIA INITIATIVE REVIEW

UNIVERSITY OF THE
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Initiatives at a Glance

McGeorge
School of Law

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INTRODUCTION

The California Initiative Review (CIR) and the Initiatives at a Glance are publications of objective and independent analyses of California statewide ballot initiatives and referendums. This year we are also including analyses of City of Sacramento ballot measures.

The CIR and Initiatives at a Glance are produced by the McGeorge Capital Center for Law and Policy and are prepared before every statewide election. Each CIR covers all measures appearing on the statewide ballot. The most current issue and past issues of the CIR and the Initiatives at a Glance are housed online on the McGeorge website, <https://law.pacific.edu/law/publications/california-initiative-review>. For the November 8, 2022, election, we anticipate that the full reports will be available on October 24, 2022.

The CIR and the Initiatives at a Glance supplement are written by law students enrolled in the California Initiative Seminar course at University of the Pacific, McGeorge School of Law. Editing of each analysis is performed by student editors under my supervision.

The student authors, editors, and I are grateful to the Capital Center for sponsoring the publication of the CIR, the Initiatives at a Glance, and the California Initiative Forum. We hope that the information contained in the analyses online, and these short synopses, will be helpful to you as you prepare to vote on the initiatives presented to the electorate this November.

Thank you for participating in our democratic process,



Mary-Beth Moylan

Associate Dean for Academic Affairs and Experiential Learning and Professor
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PROPOSITION 1: CONSTITUTIONAL RIGHT TO REPRODUCTIVE RIGHT

Current Law

- California law allows abortions to be performed if (a) the fetus is not viable; or (b) the fetus is viable, but the pregnancy puts the health of the pregnant person at risk.
- Assembly Bill 1666 protects citizens of other states that are threatened by abortion bans in their states by providing reproductive care for out-of-state residents using a state fund.

Proposed Law

- Prior to being put on the ballot, Proposition 1 was Senate Amendment Bill 10.
- SB 10 was drafted in response to the U.S. Supreme Court case overruling the federal right to abortion, *Dobbs v. Jackson Women’s Health Organization*.
- Proposition 1 would amend the California Constitution and add Section 1.1 to Article 11 expressly stating that Californians have a right to reproductive freedom.
- Reproductive freedom includes the choices to have an abortion and to use contraceptives.
- If adopted, individuals who are denied access to abortion or contraceptives, could file a case stating that their state constitutional rights were violated.

Policy Considerations

YES on Proposition 1	NO on Proposition 1
<ul style="list-style-type: none"> ● Without a clear right to abortion expressed in the California constitution, a California Court could interpret there to be no right. ● Protects reproductive choice for California citizens and others who come to California for those services. ● California law currently recognizes reproductive choice, but this provides a permanent protection for citizens. ● Criminalizing abortions would not stop abortions from happening, but it would prevent safe abortions for individuals. 	<p>Advocates Against Abortion rights who urge a NO vote on Prop 1:</p> <ul style="list-style-type: none"> ● There should be no reproductive right to abortion because abortion kills babies. ● Life starts at conception and not when the fetus is viable.
	<p>Advocates for Abortion rights who urge a NO vote on Prop 1:</p> <ul style="list-style-type: none"> ● Proposition 1 does not protect abortion because the wording of the amendment is too vague. ● This would allow Courts the discretion to interpret “interfere” in multiple ways that could restrict reproductive choice more than current law.

PROPOSITION 26: CALIFORNIA SPORTS WAGERING REGULATION AND UNLAWFUL GAMBLING ENFORCEMENT ACT.

Current Law

- Article IV Section 19 of the California Constitution provides for horse wagering and specified gambling through tribal-state compacts. However, sports wagering, games played with dice, such as roulette, are still prohibited.
- Gambling regulations are in place through the California Department of Justice, and crimes and punishments of illegal gaming are currently established in the Penal Codes.

Proposed Law

- This initiative would amend Section 19 to allow for dice games at tribal casino.
- Allows four racetracks and tribal casinos to offer in-person sports betting to adults 21 and over.
- Adds the Unlawful Gambling Enforcement Act provisions to permit private citizens to bring lawsuits against illegal gaming operations in some situations where the Attorney General’s Office has declined to sue.
- Adds the California Sports Wagering Fund, filled through a 10% tax on the four Approved Racetracks. California Department of Health and the Bureau of Gambling Control would each be allocated 15% of this fund, the remaining 70% would be put in the state’s General Fund.

Policy Considerations

YES on Proposition 26	NO on Proposition 26
<ul style="list-style-type: none">● Promotes Indian self-reliance by increasing tribal economic opportunities.● Creates jobs and revenues for the local communities and the State.● Potential to generate tens of millions in tax revenues.● Shuts down illegal gaming with stricter regulations and enforcement.	<ul style="list-style-type: none">● Expansion of gambling in California leads to an increase in gambling addiction.● Increase of frivolous lawsuits on Card Clubs will put them out of business.● Hurts communities of color if the Card Clubs go out of business.● Revitalization of the dying, abusive, horse-racing industry.

PROPOSITION 27: LEGALIZE SPORTS BETTING AND REVENUE FOR HOMELESSNESS PREVENTION FUND INITIATIVE

Current Law

- In 2018, the Supreme Court of the United States held that the federal ban on sports betting was unconstitutional and permitted a New Jersey initiative to go into effect.
- Since 2018, thirty-one states have passed laws permitting sports betting, and twenty-one states allow sports betting online.
- There is currently no dedicated annual funding to solve homelessness in California, despite the large population of people experiencing homelessness in the state.

Proposed Law

- Amends the California Constitution to permit online sports betting for gaming tribes, an online sports betting platform with an operating agreement with a gaming tribe, or a qualified gaming entity with a market access agreement with a gaming tribe.
- Imposes a ten-percent tax on gross receipts from online sports betting and puts the taxes into the California Online Sports Betting Fund (“the Fund”).
- The Fund distributes eighty-five percent to programs or initiatives aimed at solving the homelessness crisis and mental health support; and fifteen percent to Tribal economic development for tribes that are not involved in online sports betting.
- Prohibits online sports betting for anyone under the age of 21 and requires online sports betting operators to use commercially reasonable measures to verify that no one under the age of 21 is placing sports bets.
- Sets forth licensing requirements for all online sports betting operators and requires them to enter into a compact with a gaming tribe.
- Creates the Division of Online Sports Betting Control and The Independent Advisory Committee to ensure compliance with this Proposition and impose fines when an online sports betting operator violates any of the regulations.

Policy Considerations

YES on Proposition 27	NO on Proposition 27
<ul style="list-style-type: none"> ● This could be the first time a tax creates regular annual funding earmarked towards solving the homelessness crisis. ● Some smaller tribes support Proposition 27 as they could share in the benefits brought in from online sports betting. ● California is a large sports betting market and should permit betting safely for patrons. 	<ul style="list-style-type: none"> ● Tribes would lose their exclusive power to gambling rights in California. ● Tribes could lose a large part of their gaming revenues that they depend on for development. ● Big corporations like FanDuel and DraftKings could make billions of dollars in California.

PROPOSITION 28: FUNDING FOR ARTS AND MUSIC EDUCATION IN PUBLIC SCHOOLS

Current Law

- Current law is an updated version of Proposition 98 that provides mandatory funding for public education. Proposition 98 does not allocate funding to specific subject areas.
- Proposition 98 established two tests to determine the minimum percentage of the state budget to be spent on K-14 education. Test 1 links the minimum guarantee to about 40% of the General Fund OR at least the same amount as the previous year, adjusted for changes in personal incomes and growth in student population, whichever is larger. Test 2 calculates the minimum guarantee by adjusting the prior year’s minimum guarantee by student attendance and changes in the cost of living.
- Proposition 111 created a third test. Test 3 evaluates student attendance, the cost of living, and changes in the General Fund revenue prior to distribution of the funds.

Proposed Law

- Proposition 28 would allocate the current funding to include the Arts Education program for each fiscal year.
- Using the Proposition 98 formula, current law allocates about 40% of the state’s general fund to go to public schools and community college, Proposition 28 would guarantee another 1% to that allotment.

Policy Considerations

YES on Proposition 28	NO on Proposition 28
<ul style="list-style-type: none"> ● Arts education programs at California’s PK-12 schools will receive increased funding for programs that have traditionally seen funding cuts. ● Studies have linked arts education to improved student attendance, higher standardized tests scores, and higher college aspirations. ● This will help low funded schools implement arts education programs that higher funded schools are already able to implement. ● This will not increase taxes for Californians. The funding will come from the state general fund. 	<ul style="list-style-type: none"> ● Pouring funds into art and music programs can lead to budget cuts in education programs like reading, writing, and arithmetic. ● Because there is no new tax or revenue stream, and because the funding will come from the general state fund, this measure has the potential to take away funds from other state programs.

PROPOSITION 29: PROTECT THE LIVES OF DIALYSIS PATIENTS ACT

Current Law

- Kidney dialysis clinics are federally regulated by the Department of Health and Human Services, and the Centers for Medicare and Medicaid Services.
- Dialysis clinics must have at minimum one board-certified medical director on staff, but current law does not impose a set amount of time they must spend at the clinic.
- Clinics are also required to report dialysis-related infection data to the National Healthcare Safety Network at the federal Centers for Disease Control and Prevention.
- The California Department of Public Health is responsible for licensing dialysis clinics.

Proposed Law

- Kidney dialysis clinics will be required to maintain at least one licensed physician, nurse practitioner, or physician assistant present on-site during operating hours.
- Require dialysis clinics to obtain approval from the California Department Public Health before closing or reducing services.
- Clinics will be required to report all dialysis-related infections to the California Department of Public Health in quarterly reports.
- Clinics will be required to report to patients all physician-ownership of 5% or more.
- Will bar clinics from turning away patients with government-backed insurance plans.

Policy Considerations

YES on Proposition 29	NO on Proposition 29
<ul style="list-style-type: none">● The new staffing requirements may increase patient safety during treatment.● Requires clinics to obtain consent from the State before closing or substantially reducing services.● Increases transparency of dialysis clinic operations.● Prohibits dialysis clinics from refusing care to patients due to government-backed insurance.	<ul style="list-style-type: none">● Requirement for clinics to have a physician, nurse practitioner, or physician assistant during all treatment hours would increase clinic's costs.● Could increase state Medi-Cal costs, as well as state and local employee and retiree health insurance costs.● Increase costs to the California Department of Public Health for implementing requirements.● Clinics may decide to obtain approval from the State to close.

**PROPOSITION 30: TAX ON INCOME ABOVE \$2 MILLION FOR ZERO-EMISSION VEHICLES
AND WILDFIRE PREVENTION INITIATIVE**

Current Law

- The California state income tax rate for income over \$2 million is 13.3%. The federal income tax rate for income over \$2 million is 37%.
- Governor Gavin Newsom issued Executive Order N-79-20 in 2020 that requires, by 2035, all new cars and passenger trucks sold in California be zero-emission. By 2045, all operation of medium- and heavy-duty trucks must be zero-emission where feasible.
- The Clean Miles Standard, passed by the Legislature in 2018, and adopted by the California Air Resources Board in 2021, requires that app-based rideshare companies log 90% of their vehicle miles traveled with zero-emission vehicles by 2030.

Proposed Law

- Proposition 30 will increase the state income tax rate for income over \$2 million by 1.75%. This will raise the tax rate for income over \$2 million to 15.05%.
- The additional tax revenue will create a fund to reduce emissions from two of the state’s most significant sources of greenhouse gas emissions—transportation and wildfires— with public investments in Zero Emission Vehicles (ZEVs) and improvement in the prevention and suppression of wildfires.
- 45% of the funds will help consumers purchase new ZEVs, 35% of the funds will construct and maintain charging stations, and 20% will be dedicated to wildfire response and prevention.

Policy Considerations

YES on Proposition 30	NO on Proposition 30
<ul style="list-style-type: none"> ● Action is needed to prevent wildfires and reduce vehicle pollution because Californians deserve clean air. ● In California, 1.2 million children have been diagnosed with asthma and seven out of the ten smoggiest cities in America are in California. ● Proposition 30 dedicates funding to making ZEVs more affordable. ● With Proposition 30 funding, more than 500,000 apartments and homes will be equipped with electric vehicle chargers in the first year alone. 	<ul style="list-style-type: none"> ● Proposition 30 is a corporate special interest carve-out for app-based rideshare companies that must comply with the Clean Miles Standard. ● Proposition 30 shifts that burden from app-based rideshare companies to taxpayers. ● California already has some of the highest taxes in the country and another tax increase is not needed. ● If such proposals for cleaner air are a priority, funds should come from the existing General Fund.

PROPOSITION 31: REFERENDUM ON 2020 LAW THAT WOULD PROHIBIT THE RETAIL SALE OF CERTAIN FLAVORED TOBACCO PRODUCTS

Current Law

- Under SB 7 (2016), the purchase of tobacco products minimum legal age was raised in California, making the legal smoking and tobacco products purchasing age from 18 to 21.
- California has a cigarette tax of \$2.87 per pack (enacted April 2017), while all other tobacco products are taxed at 65.08% of the wholesale price.
- California Penal Code Section 308(a) and The STAKE Act prohibit sales of tobacco and tobacco paraphernalia, including electronic cigarettes, to persons under the age of 21.

Proposed Law

- Proposition 31 proponents want voters to vote no so that Senate Bill 793 (SB 793) will not take effect and the sale of flavored tobacco would remain legal in the state.
- SB 793 will prohibit in-person stores and vending machines from selling most flavored tobacco products or tobacco product flavor enhancers. SB 793 does not ban shisha (hookah) tobacco sold and used at the store, certain cigars, or loose-leaf tobacco.
- Defines flavored tobacco products as those that have a flavor, apart from the regular tobacco flavor. For example, the flavor could include fruit, mint, menthol, honey, etc.
- Charges a \$250 penalty against stores and vending machine owners for each violation of the requirements described previously.

Policy Considerations

YES on Proposition 31	NO on Proposition 31
<ul style="list-style-type: none"> ● A YES vote is to uphold the contested legislation, Senate Bill 793 (SB 793), which would ban the sale of flavored tobacco products. ● Flavors such as menthol in combustible cigarettes, sweet and fruit flavors in e-cigarettes, oral tobacco, and little cigars are targeted to and disproportionately impact young people and minorities. ● Flavors and fruit e-liquids are claimed to be responsible for the upswing in youth vaping. 	<ul style="list-style-type: none"> ● A NO vote is to repeal the contested legislation, Senate Bill 793 (SB 793), thus keeping the sale of flavored tobacco legal in the state. ● If upheld, decreased state tobacco tax revenues would range from tens of millions of dollars annually to around \$100 million annually. ● Prohibition would have a negative financial impact on small businesses operating on tight margins.

MEASURE L: SACRAMENTO CHILDREN AND YOUTH HEALTH AND SAFETY ACT

Current Law

- The City Manager proposes a budget to the city council each year on how to allocate funds.

Proposed Law

- This measure would add Section 120 article IX of Sacramento City Charter establishing the “Sacramento Children’s Fund.”
- The amount allocated is equivalent to 40 percent of the total revenue generated from existing cannabis business taxes.

Policy Considerations

YES on Measure L	NO on Measure L
<ul style="list-style-type: none">● Funds positive youth development and youth violence prevention programs● Services for homeless youth and foster children.● Mental health counseling and substance abuse treatment.● 30% of Sacramento's population is youth.	<ul style="list-style-type: none">● Limits city council’s ability to fund other programs and locks up funds.● Survey suggests that city clean up, homelessness, and climate change are more pressing issues to community members.● No need to amend the Charter, Council can already vote to increase funds for services.

MEASURE M: REDISTRICTING MAP IMPLEMENTATION

Current Law

- Under current law redistricting maps take effect immediately upon adoption.

Proposed Law

- Amended wording to Subsection (b) of Section 171, clarifies that new redistricting maps take effect at the next regularly scheduled election.

Policy Considerations

YES on Measure M	NO on Measure M
<ul style="list-style-type: none">• New redistricting maps will be effective at the next regularly scheduled election.• Helps eliminate the duplication of council members when new maps are adopted.	<ul style="list-style-type: none">• New districts should take effect immediately to account for the changes in population.

**MEASURE N: SACRAMENTO TOURISM AND ECONOMIC DEVELOPMENT FACILITIES UPDATE
OF 2022**

Current Law

- Transient Occupancy Tax is an amalgamation of three taxes totaling 12%. The General Fund receives 2% and the remaining 10% is restricted in use by the City Codes.

Proposed Law

- This measure would add a new subsection to describe additional eligible uses of the Transient Occupancy Tax as economic development projects that create local jobs.

Policy Considerations

YES on Measure N	NO on Measure N
<ul style="list-style-type: none">● This City ordinance has not been updated for nearly 60 years.● Creates jobs and revenues for the local communities and the State.● Allows for tourism related economic development	<ul style="list-style-type: none">● It is currently serving the purpose it was originally set up to serve and there is no need to make a change.

MEASURE O: EMERGENCY SHELTER AND ENFORCEMENT ACT OF 2022

Current Law

- City Code Prohibits encampments except if permitted or on private property.

Proposed Law

- Adds Chapter 12.100 to Sacramento City Code to address homelessness but is only operable if Sacramento County agrees to take part.
- Subsections include abatement processes for residents, framework for identifying unlawful encampments, process for unlawful encampment removal, and funding resource allocations.
- Requires that shelter housing be offered before the abatement process can begin.

Policy Considerations

YES on Measure O	NO on Measure O
<ul style="list-style-type: none">● Homelessness is a crisis, and people experiencing homelessness need help securing safe shelter.● Improves public safety by relocating homeless persons to safe designated areas.● Requires the County to join in before the ordinance can become operable.	<ul style="list-style-type: none">● Violates people’s human rights to choose how they want to live.● City is not equipped to deal with the crisis.● The measure is funded by corporate interests who are using money and influence to force the City to put this measure on the ballot.