



Proposition 61: Mandated Cap on Drug Prices

(Official Title: State Prescription Drug Purchases. Pricing Standards. Initiative Statute.)

CALTAX POSITION: OPPOSE

The California Taxpayers Association opposes Proposition 61, which has major implementation problems, and could increase health care costs for most Californians by shifting the research and development costs of prescription drugs from government purchasers to private payers and employers.

DIGEST

Prohibits a state agency from paying more for a prescription drug than the lowest price paid for the same drug by the U.S. Department of Veterans Affairs (VA).

MAJOR PROVISIONS

- **Mandated Cap on Drug Prices.** Prohibits a state agency from purchasing a prescription drug unless the cost is the same or less than the lowest price paid by the VA.
- **Medi-Cal Exemptions.** Medi-Cal, which is the state version of Medicaid, provides health care for low-income Californians and consists of a “fee-for-service” program (24 percent of the overall program) and a managed care program (76 percent of the overall program). The fee-for-service program is covered by the initiative, while the managed care program is not covered.
- **Affected Entities.** The initiative applies to all programs where the State of California, state administrative agency, or other state entity is the ultimate payer for a prescription drug. Local governments are not specifically mentioned in the initiative.
- **Affected Patients.** The initiative’s provisions do not directly affect health care coverage for the 20 million Californians covered by private-sector plans, 9.9 million covered by Medi-Cal managed care, or 1.5 million patients receiving care under Covered California.
- **Other Provisions.** The initiative also authorizes the Legislature to amend the initiative by a two-thirds vote to strengthen its provisions; authorizes the proponents to serve as the initiative’s legal defense in the event that the state chooses not to defend the initiative; and states that the proponents may be held

liable if the initiative's provisions in whole or in part are held unconstitutional by the courts, and will pay a civil fine for drafting a flawed measure.

FISCAL IMPACT

The Legislative Analyst's Office determined that this initiative would result in a substantial increase in state and local government costs. The analyst was not able to provide a detailed analysis, as the necessary data could not be acquired in a short timeframe.

BACKGROUND

A number of state agencies, including the State Department of Mental Health, Department of Corrections and Rehabilitation, Department of Youth Authority and Department of Developmental Services participate in the state's drug-purchasing program, where prescription drug prices are negotiated by the Department of General Services (DGS). DGS negotiates with drug manufacturers, and manufacturers provide prescription drugs at set rates to state and local agencies. At the federal level, the VA negotiates prescription drug prices with drug manufacturers, and not all prescription drugs are covered by the VA's formulary.

POLICY CONSIDERATIONS

- **Increases State Health Care Costs.** Proposition 61 would increase health care costs by tens of millions of dollars annually by preventing the state from taking advantage of prescription drug manufacturer rebates. Currently, the Medi-Cal fee-for-service program receives \$233 million in rebates from drug manufacturers, \$97.7 million of which benefits the state general fund.
- **Implementation Issues.** It is unclear how this initiative would be implemented. The initiative requires the state to make decisions based on private, proprietary information. Further, the VA does not make prescription drug prices available to the public, and it is unclear how California agencies would obtain this information.
- **Impact on Research and Development.** Bringing a new medicine to market costs an average \$2.6 billion. If California and other states pass laws that limit drug prices, manufacturers likely will invest less in research and development, since they will not be able to recoup research costs by charging market rates for medicines that reach the market.
- **Impact on Cost of Medicines for Veterans.** This measure would create an incentive for drug manufacturers to increase the prices of medicines sold to the VA for the treatment of U.S. military veterans.