



Ballot Recommendations for the November 2022 General Election

The board of Friends Committee on Legislation of California (FCLCA) arrived at unity on all seven ballot propositions on the November 2022 ballot and makes the following recommendations:

Proposition 1: *Constitutional Right to Reproductive Freedom.* Legislative Constitutional Amendment. **Recommendation: YES.**

In June 2022 the United States Supreme Court, shaped by the appointments of three Justices by former President Trump, ruled in *Dobbs v. Jackson* that the U. S. Constitution does not confer a right to abortion, overturning nearly 50 years of established legal precedent under *Roe v. Wade* (1973) and returned the authority to regulate abortion to the states. Numerous states moved quickly to outlaw abortion even in cases of rape and incest, and some states had trigger laws on the books designed to take effect immediately in anticipation of *Roe* being overturned. While *Dobbs* leaves the authority to regulate abortion with states, several bills have been introduced in Congress to ban abortions nationwide.

Prior to *Roe*, California voters approved Proposition 11 in 1972, which established a constitutional right to privacy in the California Constitution. California courts have generally held the right to privacy extends to an individual's decision whether to have an abortion. In 2002 the State Legislature enacted the Reproductive Privacy Act declaring that women have a "fundamental right to choose to bear a child or to choose to obtain an abortion for any reason prior to fetal viability."

FCLCA affirms the right of women to make this choice. We recognize that this is also an issue of race and class. California would be taking a stand for equity, as the *Dobbs* decision primarily limits the choices of people of color and the poor and puts their health at risk, whereas the more well-to-do can afford to travel to states where abortion is still legal.

Proposition 1 amends the California Constitution to proclaim that "the State shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives." Enumerating reproductive freedom in the state Constitution will insulate against further attempts at the federal level and/or future attempts at the state level to restrict access to abortion. **FCLCA recommends a YES vote on Proposition 1.**

Proposition 26: *Allows In-Person Roulette, Dice Games, Sports Wagering on Tribal Lands.* Initiative Constitutional Amendment and Statute.
Recommendation: YES.

Proposition 27: *Allows Online and Mobile Sports Wagering Outside Tribal Lands.* Initiative Constitutional Amendment and Statute. **Recommendation: NO.**

Big gambling interests are competing on the ballot this year following a 2018 ruling by the U.S. Supreme Court that struck down a federal prohibition on sports betting. The stakes are high. As of this writing, the campaigns have spent a record \$350 million to blanket the airwaves with ads both for and against Propositions 26 and 27.

Propositions 26 and 27 are competing with one another. If both initiatives pass, the one that receives the more votes would become law and the courts would have to sort out which pieces would prevail.

Proposition 26 would allow federally recognized Native American tribes to operate roulette, dice games and sports wagering on tribal lands. It also allows on-site sports wagering at four privately operated horse-racing tracks. Proposition 27 would allow the larger gambling companies and tribes with state compacts to offer online and mobile sports betting. It also creates a new state trust fund based on 10 percent of sports bets less certain expenses, with 85 percent of the fund's revenues to address homelessness, mental health and gambling addiction and 15 percent to tribes that do not participate in online sports betting. A new regulatory agency would be created within the state Department of Justice.

FCLCA's position regarding tribal gaming is complex. FCLCA endorses Friends' traditional opposition to gambling on moral grounds. Gambling is addictive to some, and families may become destitute because of gambling. While we continue to bear testimony against gambling, we do not feel it is right to impose our will on sovereign Native American nations.

We recognize that legalized sports betting is now an inevitable reality. Under Proposition 26, it would be regulated by compacts between Native American tribes and the State of California, and it would only be conducted in person at facilities where gambling already occurs. Proposition 27 has the potential to turn every online gadget into a gambling device, which would entice more people to gamble and would be harder to regulate. While it would be great to have to have additional funds to address homelessness and mental health, Friends have never believed it is right to fund other programs with gambling revenues. The real winners under Proposition 27 are the large gaming interests.

FCLCA is taking a harm reduction approach. If Proposition 26 receives more votes than Proposition 27, it could prevent the worst elements of Proposition 27 from taking effect. **FCLCA recommends a YES vote on Proposition 26 and a NO vote on Proposition 27.**

Proposition 28: Provides Additional Funding for Arts and Music Education in Public Schools. Initiative Statute. **Recommendation: YES.**

This measure would provide additional funding for arts and music education by annually allocating an amount equal to one percent of the required state General Fund and local property tax revenue for public education.

The current funding formula for public education, known as the “Proposition 98 guarantee,” requires about 40 percent of state General Fund revenues to be spent on public education. The new funding provided by Proposition 28 would be in addition to the funds provided under the Proposition 98 guarantee. The measure directs that 80 percent of the new funding be used to hire new staff, with exceptions for school districts and charter schools with less than 500 students. The Legislature has the ability to suspend the Proposition 98 funding guarantee by a two-thirds vote to reduce education funding and has done so in bad budget years in order to avoid deeper cuts to safety net programs. This measure would allow the Legislature to also reduce the new funding it provides up to the same percentage as any reduction in Proposition 98 funding.

Currently, there is no dedicated funding for arts and music education, which includes dance, coding, animation, computer graphics, costume design and filmmaking in addition to traditional arts and music programs, all of which promote creative expression and are gateways to higher learning. When school budgets are reduced, these programs are typically the first to be cut.

While FCLCA has been skeptical of ballot box budgeting schemes that do not provide a new funding source, this is also a matter of equity as 60 percent of California’s public school students come from low-income families who may not be able to access privately paid programs in music and the arts. Proposition 28 is a worthy trade-off and one that California should make. **FCLCA recommends a YES vote on Proposition 28.**

Proposition 29: Requires On-Site Licensed Medical Professional at Kidney Dialysis Clinics and Establishes Other State Requirements. Initiative Statute. **Recommendation: NO.**

If Proposition 29 seems familiar, that is because it is essentially a retooling of Proposition 23 in 2020, which was rejected by 63 percent of voters. Dialysis clinics are an annual \$3 billion industry, with roughly 600 dialysis clinics in the state, mostly owned by just two companies, Davita and Fresenius. Clinics are staffed by nurses and technicians, and federal regulations require that a medical director – a kidney specialist – oversee each clinic, but they are not required to be always on site.

Most dialysis patients receive their services through Medicare with payments to clinics hovering just above the cost of service. Dialysis providers negotiate significantly larger profits from private insurers. In recent years, Davita has agreed to pay several eight and nine figure settlements for various schemes to illegally steer dialysis patients into private insurance.

Proposition 29 would require a physician, nurse practitioner, or physician assistant with six months' relevant experience to be on site whenever dialysis treatments are being administered. Clinics would be required to offer the same quality of care to all patients and cannot refuse care based on who pays. They would be required to provide patients with a list of physicians or other persons who have an ownership interest of at least 5 percent in the clinic. Infections, which are currently reported to the federal Centers for Disease Control, would also have to be reported to the California Department of Public Health (CDPH). Clinics would have to obtain permission before they close.

The prohibitions on turning away patients based on how they pay (though it is not clear that this is a problem), the ownership disclosure and additional reporting of infections seem like good things. However, supporters have not made the case that the quality of care would be improved by requiring onsite physicians, nurse practitioners, or physician assistants. The requirement would put extra responsibilities unnecessarily on providers when there is a shortage of nurses and doctors in the state. The additional costs would be high and would ultimately be borne by state and local governments, Medicare and Medicaid. We are more concerned about the shortage of healthcare providers in California than declining profit margins.

Once again it seems a ballot proposition is not an effective way to regulate dialysis clinics. **FCLCA recommends a NO vote on Proposition 29.**

Proposition 30: *Provides Funding for Programs to Reduce Air Pollution and Prevent Wildfire by Increasing Tax on Personal Income Over \$2 Million.* Initiative Statute. **Recommendation: YES.**

Proposition 30 would assess an additional tax on the share of incomes above \$2 million and would direct 80 percent of the revenues for Zero Emission Vehicle (ZEV) programs and 20 percent for wildfire prevention and response. Depending on the economy, the Legislative Analyst's Office estimates this tax would raise between \$2.8 billion and \$4 billion annually for ZEV programs and \$700 million to \$1 billion for wildfire prevention and response. Forty-five percent of the new funds would be used to help subsidize the cost of ZEV's and 35 percent for charging stations with half of these funds spent on projects to benefit those who live in heavily polluted and/or low-income communities.

Thanks to an executive order by Gov. Newsom, California is slated to end the sale of new gas-powered cars by 2035. While the Governor's most recent budget allocates \$10 billion to electric vehicle subsidies and charging stations, it will not be enough. FCLCA favors progressive taxation, and the taxpayers who will pay more under Proposition 30 received the lion's share of the federal tax cuts signed into law by then-President Trump in 2017. **FCLCA recommends a YES vote on Proposition 30.**

Proposition 31: Referendum on 2020 Law That would Prohibit the Retail Sale of Certain Flavored Tobacco Products. Recommendation: YES.

In 2020, the Legislature, passed SB 793 with bipartisan support to prohibit the retail sale of flavored tobacco products. Gov. Newsom immediately signed the bill into law. Before the ink on the governor's signature was dry, the tobacco industry began bankrolling efforts to have the bill overturned and successfully gathered enough signatures to put Proposition 31 on the ballot. As a result, implementation of SB 793 will take effect only if voters pass Proposition 31 this November.

A YES vote on Proposition 31 means that SB 793 will go into effect and that the retail sale of flavored tobacco products will be prohibited.

As tobacco use declines, the tobacco industry has stepped up efforts to market tobacco products to new users. New flavors like mango and blue razz are popular with young people. A 2021 survey by the U.S. Food and Drug Administration and the Centers for Disease Control alarmingly found that more than 2 million high school and middle school students currently use electronic cigarettes with 85 percent of them favoring flavored tobacco products.

While supporters of Proposition 31 stress concerns about the marketing of flavored tobacco to young people, opponents have several arguments against implementing SB 793. They point out that combustible cigarettes are more harmful and would still be legal. They note that flavored tobacco would be outlawed for adults as well and have made claims that vaping is less harmful and may help smokers give up traditional cigarettes. They suggest that stronger enforcement of prohibitions on youth tobacco use would make more sense than banning flavored tobacco products.

Nicotine is an extremely addictive substance and has harmful effects on the developing brain. That, along with the ability of tobacco companies to market addictive products to young people, outweigh the concerns of opponents. We should be willing to give SB 793 a chance. **FCLCA recommends a YES vote on Proposition 31 to put the Legislature's prohibition on retail sales of flavored tobacco products in effect.**