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Local Hospital Districts.

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Local Hospital Districts.
Legislative Constitutional Amendment

Official Title and Summary:

LOCAL HOSPITAL DISTRICTS.
LEGISLATIVE CONSTITUTIONAL AMENDMENT

- This measure would permit the Legislature, by statute, to authorize local hospital districts to acquire and own stock of corporations engaging in any health care related business, as defined by the Legislature.
- Provides that the district shall be subject to the same obligations and liabilities imposed by law upon all other stockholders in those corporations.
- Provides that the amendments do not repeal or otherwise affect an existing statute denying professional rights, privileges, and powers to corporations and other artificial legal entities.

Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:

- This measure has ~~no net fiscal effect~~
-

Final Votes Cast by the Legislature on ACA 29 (Proposition 124)

Assembly: Ayes 71	Senate: Ayes 37
Noes 0	Noes 0

Analysis by the Legislative Analyst

Background

The State Constitution generally prohibits the state and local governments from acquiring or holding corporate stock. The only exception to this restriction involves irrigation districts. Such districts may acquire corporate stock for the purpose of obtaining water, water rights, or control of international water systems.

Proposal

This measure allows the Legislature to authorize local hospital districts to acquire and own corporate stock. The

hospital districts are only allowed to invest in corporations that engage in health care-related businesses, as defined by the Legislature.

Fiscal Effect

This measure has no direct fiscal effect, as it merely authorizes the Legislature to allow hospital districts to invest in corporate stock. The ultimate impact on local hospital districts depends on the type of investments allowed by the Legislature and undertaken by the districts.

For text of Proposition 124 see page 73

Argument in Favor of Proposition 124

Proposition 124 simply allows a hospital district—an important type of local government agency—to acquire and own stock in health-care related businesses.

Health care is rapidly changing. Hospitals are now operating walk-in clinics to better serve the public. They are joining together with physicians to provide low cost “outpatient” surgery, or to acquire sophisticated equipment and facilities to treat cancer or heart disease. They are forming pre-paid health organizations to cover health care much like the Kaiser Foundation plans.

Or at least private hospitals are.

The 57 hospital districts in California cannot do the same kinds of things because, as local government agencies, they cannot own corporate stock. That ties their hands and denies them the opportunity for joint ventures and partnerships that are now routine for most hospitals.

In rural areas, that means district hospitals cannot use economic and innovative ways to broaden services. In urban areas, it also means district hospitals cannot compete on an equal footing with nearby private hospitals.

This measure corrects this inequity. It allows hospital districts to own stock in health-care related businesses, as defined by the Legislature.

Proposition 124 gives district hospitals an ability that private hospitals have long taken for granted. It allows them to be more resourceful and innovative, and to operate under the same set of rules as private hospitals.

Vote yes on Proposition 124. It’s a matter of fairness.

TIM LESLIE

Assemblyman, Fifth District

RON YOUNGREN

President, Association of California Hospital Districts

Rebuttal to Argument in Favor of Proposition 124

Public hospitals are different than private hospitals. Public hospitals are supported by tax dollars and run by political appointees. They do not compete with private hospitals, because they must take any patient who needs care. Their policy decisions are made for political reasons. Unlike private hospitals, they do not make decisions in order to make a profit for their investors.

Since private hospitals are businesses (like grocery stores, jewelers, building contractors, etc.), they have every right to buy stock in other companies and to join in ventures with them. Supporters of this measure say it is unfair to exclude public hospitals from these activities, but it is actually wise public policy.

Currently, **NO GOVERNMENT AGENCIES CAN OWN CORPORATE STOCK.** It may seem like a minor exception to give hospital districts the right to do so. But it sets a bad precedent of letting government meddle in the private sector. What if city councils start buying stock

in companies that do business with their cities? Passage of Proposition 124 will give government agencies new and dangerous power to unfairly influence the free market.

It’s fair for private businesses to compete with each other, but not with public agencies that aren’t accountable to consumers. In this case, the hands of government hospital districts *should* remain tied. It is very important to keep the stock market private.

VOTE NO on Proposition 124.

THOMAS TRYON

Chairman, Board of Supervisors, Calaveras County

GAIL LIGHTFOOT

Chair, Libertarian Party of California

TED BROWN

Member, State Executive Committee, Libertarian Party of California

Local Hospital Districts. Legislative Constitutional Amendment

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Argument Against Proposition 124

State, county, and local governments are not allowed to buy stock in private corporations. This is part of our State Constitution, and it is a wise law. Proposition 124 would change that and allow local hospital districts (owned by the government) to buy stock in health care businesses. We urge you to vote NO.

Consider what would happen if governments could buy stock. Government officials could use your tax dollars to buy a company and put it out of business . . . or to offer unfair competition to still-private businesses . . . or to create monopolies like cable TV.

The repressive governments of Eastern Europe (which have fallen recently) owned a lot of companies—and ran them all poorly. The trend emerging in the world is against government control of the economy. Proposition 124 would lead to MORE controls. It would be a back-handed way of nationalizing private companies.

Local hospital districts run government-owned hospitals. Decisions by their boards are made for political reasons, since they do not care about free-market competition. Health care related businesses include health insurance companies, health maintenance organizations (HMOs), drug manufacturers, pharmacies, private hospitals and private nursing homes. Do you really want politics to affect the decisions of such businesses? They are regulated by the state already. Should the state be allowed to own part or all of them as well? We don't think so.

Proposition 124 would allow hospital districts to own stock, but owning stock does little good unless you own a lot of stock in a particular company. The proposition would result in government control of businesses that affect peoples' health and well-being. Voters cannot allow this to happen.

The government has an almost unlimited source of funds (from your pocket). Do you want officials to be playing around in the stock market with your money? The lives and fortunes of millions of people hinge on the price of stocks and the Dow Jones Industrial Average. The ups and downs of the market would be markedly affected by the intrusion of political money and decision-making.

For example, a hospital district could buy a competing private hospital and put it out of business. It could buy control of a drug manufacturer, lower the price of pharmaceuticals for its own use, and thus lower the manufacturer's profit. This would hurt small investors in that company by lowering their dividends and the value of their stock.

Proposition 124 is a bad law. Its passage would lead to other exceptions to the wise wording of our State Constitution and would allow more government control of the economy.

Vote to preserve the stock market, the free enterprise system of competing private businesses, and the autonomy of companies that keep us healthy. VOTE NO on Proposition 124.

THOMAS TRYON

Chairman, Board of Supervisors, Calaveras County

GAIL LIGHTFOOT

Chair, Libertarian Party of California

TED BROWN

Member, State Executive Committee, Libertarian Party of California

Rebuttal to Argument Against Proposition 124

Take over a drug company? Manipulate the stock market?

Never. It can't happen because:

- **VOTERS WON'T ALLOW IT.** They elect hospital district directors and won't stand still for shenanigans.
- **LEGISLATORS WON'T PERMIT IT.** Proposition 124 allows hospital districts (and not the state or anybody else) to buy stocks in health-related corporations *as defined by the Legislature*. Those definitions will be tightly drawn.
- **DISTRICT HOSPITALS COULDN'T AFFORD IT.** No district hospital has that kind of money. For that matter, most of them couldn't afford to buy out another hospital, either.

Far from having an "unlimited" source of funds, most district hospitals are struggling to survive. They are looking for ways to improve services and operate more efficiently.

Like other community hospitals, district hospitals can't hire doctors. What happens if they want to jointly run an urgent care clinic in an area without enough health care, or open a lower cost same-day surgery unit? Most private hospitals would form a corporation and share stock with the doctors. That's something district hospitals can't do.

Of all hospitals, district hospitals may be the most responsive and concerned—after all, they have to answer to the local voters. That doesn't mean they should be treated like second class citizens.

They're not out to squelch free enterprise. They want to increase it. All this proposition does is give them some of the tools their competitors already have.

HOWARD S. BROWN, M.D.

FREDERICK A. GROVERMAN, D.V.M.

Proposition 124: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 29 (Statutes of 1990, Resolution Chapter 6) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XVI

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and *provided, further, that the Legislature by statute may authorize local hospital districts to acquire and own stock of corporations which engage in any health care related business as that term may be defined from time to time by the Legislature, and provided that the district shall be subject to the same obligations and liabilities as are imposed by law upon all other stockholders in those corporations; and*

Provided, further, that nothing in this section shall be construed to repeal or otherwise affect Section 2400 of the Business and Professions Code; and

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State

from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such ~~publicly owned~~ *publicly owned* nonprofit corporation or other public agency as may be authorized by the Legislature; and

Provided, further, that nothing contained in this Constitution shall prohibit the use of State money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be repaid from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.

Proposition 125: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 32 (Statutes of 1990, Resolution Chapter 55) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XIX

SECTION 1. Revenues from taxes imposed by the state on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for

nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for ~~such~~ *those* purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for those purposes, the administrative costs necessarily incurred in the foregoing purposes, *the acquisition of rail transit vehicles and rail transit equipment which operate only on exclusive public mass transit guideways*, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

Proposition 126: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 38 (Statutes of 1990, Resolution Chapter 56) expressly amends the Constitution by adding a section and an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XIII B AND ADDITION OF ARTICLE XXII

First—That the Legislature hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 13 to Article XIII B thereof, to read:

SEC. 13. (a) *For the 1990-91 fiscal year, "proceeds of taxes" do not include any taxes collected in accordance with Section 5 of Article XXII during that fiscal year.*

(b) *For fiscal years beginning on or after July 1, 1991, the appropriations limit of the state shall be the appropriations limit for the 1990-91 fiscal year as otherwise determined pursuant to this article, as increased by an amount equal to the amount of revenue received for the 1991-92 fiscal year from the taxes imposed pursuant to Section 5 of Article XXII, and as further adjusted pursuant to this article.*

Second—That the Legislature hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Article XXII, to read:

Article XXII. Alcoholic Beverage Excise Taxes and Surtaxes

SECTION 1. *Taxes or fees specifically imposed on the manufacture, importation, storage, distribution, sale, consumption, or use of alcoholic beverages may be levied only as provided in Sections 3, 4, and 5 of this article, or by the Legislature pursuant to Section 22 of Article XX and Section 3 of Article XIII A. Taxes or fees, which are imposed or authorized by the Legislature, and which are broadly applicable to the manufacture, importation, storage, distribution, sale,*

consumption, or use of tangible personal property, may be applied in the case of alcoholic beverages.

SEC. 2. *Except as provided by the Legislature, the taxes imposed under Sections 3, 4, and 5 are in lieu of all county, city (including a charter city), or district taxes on the sale of alcoholic beverages.*

SEC. 3. *An excise tax is imposed upon all beer and wine sold in this State by a manufacturer, winegrower, importer, or seller of beer or wine selling beer or wine with respect to which no tax has been paid within areas over which the United States government exercises jurisdiction, at the following rates:*

(a) *On all beer, one dollar and twenty-four cents (\$1.24) for every barrel containing 31 gallons and at a proportionate rate for any other quantity.*

(b) *On all still wines containing not more than 14 percent of absolute alcohol by volume, one cent (\$.01) per wine gallon and at a proportionate rate for any other quantity.*

(c) *On all still wines containing more than 14 percent of absolute alcohol by volume, two cents (\$.02) per wine gallon and at a proportionate rate for any other quantity.*

(d) *On champagne, sparkling wine, excepting sparkling hard cider, whether naturally or artificially carbonated, thirty cents (\$.30) per wine gallon and at a proportionate rate for any other quantity.*

(e) *On sparkling hard cider, two cents (\$.02) per wine gallon and at a proportionate rate for any other quantity.*

SEC. 4. *An excise tax is imposed upon all distilled spirits sold in this state by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, common carrier with respect to sales made upon boats, trains, and airplanes, person licensed to sell distilled spirits upon boats, trains, and airplanes, or seller of distilled spirits selling distilled spirits with respect to which no tax has been paid within areas over which the United States government exercises jurisdiction, at the following rates:*

(a) *On all distilled spirits of proof strength or less, two dollars (\$2) per wine*