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## State Fees on Community Hospitals. Federal Medi-Cal Matching Funds. Initiative Constitutional Amendment.

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July 25, 2013

Initiative Coordinator  
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

**RECEIVED**

JUL 25 2013

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

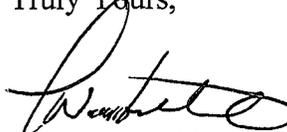
Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, I submit the attached proposed statewide ballot measure ("Medi-Cal Funding and Accountability Act of 2014") to your office and request that you prepare a circulating title and summary of the measure as provided by law. I have also included with this letter the required signed statements pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Thank you for your time and attention to this important matter. Should you have any questions or require additional information, and for public inquiries, please contact the undersigned by phone at (916) 442-7757 or direct written correspondence to 455 Capitol Mall, Suite 600, Sacramento, California 95814.

Very Truly Yours,



Thomas W. Hiltachk,  
Proponent

## Medi-Cal Funding and Accountability Act of 2014

## SECTION 1. STATEMENT OF FINDINGS

- A. The federal government established a Medicaid program to help states pay for health care services provided to low-income patients, including the elderly, disabled, and children. In California this program is called Medi-Cal. To receive the maximum amount of federal Medicaid funds, the state has to contribute a matching amount of its own money.
- B. For over two decades, the State Legislature has never appropriated sufficient funds to obtain the full amount of federal matching funds available to California. This has resulted in the loss of billions of dollars in available federal money and only worsened the financial shortfall facing hospitals providing care and emergency services to Medi-Cal patients in California.
- C. Beginning in 2009, California hospitals agreed to pay a fee to be enacted by the Legislature for the purpose of enabling the state to obtain the full amount of federal matching funds available, thereby maximizing the federal funds for Medi-Cal. This program has resulted in California hospitals receiving about \$2 billion per year in previously unclaimed federal money.
- D. Unfortunately, since the inception of this hospital fee program, its effectiveness has been undermined because, over time, the Legislature has diverted an increasing amount of the funds raised by the fee for other purposes.

## SECTION 2. STATEMENT OF PURPOSE

Therefore, in order to ensure that the fees contributed by hospitals to the state for the purpose of maximizing the available federal matching funds are used for their intended purpose, the People hereby amend the Constitution to:

- A. Prohibit the Legislature from imposing a fee on hospitals for the purpose of obtaining federal health care matching funds unless the money is used exclusively to provide hospital care to low-income Californians, including the elderly, disabled, and children; and
- B. Prohibit the Legislature from diverting these funds for any other purpose.

## SECTION 3. AMENDMENT TO CONSTITUTION

Section 3.5 of Article XVI of the California Constitution is added to read:

Sec. 3.5(a) The Legislature shall not impose a fee, nor continue the imposition of an existing fee, on any community hospital for the purpose of obtaining federal financial participation in the Medicaid program, or any other similar federal program, unless:

- (1) The proceeds of the fee, the matching amount provided by the federal government, and all interest earned on such proceeds, are deposited into a Trust Fund created in the State Treasury and subject to annual state audit;
- (2) The proceeds of the fee, the matching amount provided by the federal government, and all interest earned on such proceeds, are used exclusively to supplement existing funding for hospital services provided by community hospitals to Medi-Cal patients, or other patients in any other similar federal program, whether paid directly or through a third party payer;

- (3) Notwithstanding paragraph (2), the Legislature may allocate a portion of the annual proceeds of the fee to: (i) reimburse the State for the actual cost of collection of the fee and the administration of the Trust Fund; and (ii) up to a maximum of twenty percent (20%) of the annual proceeds of the fee to provide health care coverage for children enrolled in Medi-Cal;
- (4) The rate of the fee does not exceed the maximum rate permitted by federal law for the purpose of obtaining federal financial participation in the Medicaid program, or any other similar federal program;
- (5) Before the state is authorized to collect the fee, the state is required to obtain all necessary approvals for the fee and related increase in Medi-Cal reimbursements from the federal Centers for Medicare and Medicaid Services; and
- (6) The proceeds of the fee, the matching amount provided by the federal government, and all interest earned on such proceeds, are not used to supplant existing funding for hospital services provided to Medi-Cal patients.

(b) The proceeds of the fee and all interest earned on such proceeds shall not be considered revenues, General Fund revenues, General Fund proceeds of taxes, or allocated local proceeds of taxes, for purposes of Sections 8 and 8.5 of this Article. The appropriation of the proceeds in the Trust Fund for hospital services to Medi-Cal patients or other patients in any other similar federal program shall not be subject to the prohibitions or restrictions in Sections 3 or 5 of this Article.

(c) For purposes of this section:

- (1) "Community hospital" means a general acute care hospital licensed by the state, except a hospital owned or operated by the federal government.
- (2) "Existing funding for hospital services" means the total amount expended from appropriations by the Legislature for hospital services provided to Medi-Cal patients, whether paid directly or through a third party payer, in the fiscal year in which this section is enacted, or in any subsequent fiscal year, whichever is greater. "Existing funding for hospital services" does not include: (i) any amount appropriated from the Trust Fund required by subdivision (a)(1) of this section; and (ii) the total amount expended from appropriations by the Legislature arising from certified public expenditures incurred by public hospitals and the government entities with which they are affiliated, or arising from intergovernmental transfers authorized by law.
- (3) "Fee" means a charge, levy, or exaction imposed by the Legislature and permitted by federal law for the purpose of obtaining federal financial participation in the Medicaid program, or any other similar program.
- (4) "Matching amount provided by the federal government" is the amount of the federal financial participation authorized for a given amount of state funding pursuant to the Medicaid program or any other similar federal program.

SECTION 4. GENERAL PROVISIONS

(a) If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

(b) This Act is intended to be comprehensive. It is the intent of the People that in the event this Act or measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.