



CALIFORNIA 2016
BALLOT BACKGROUNDER

Proposition **61**
Prescription Drug Pricing

Research Assistant: Bryn Miller

Purpose

Proposition 61 would seek to limit rising drug prices by requiring the state of California to buy certain drugs at prices no higher than the prices paid by the U.S. Department of Veterans Affairs (V.A.). The measure applies to drugs purchased by state agencies, not by individuals.

Background

The debate over climbing drug prices has reached the California ballot this year. Proposition 61, an initiative sponsored by AIDS Healthcare Foundation and its founder Michael Weinstein, seeks to limit the prices of the drugs the state of California buys in an attempt to check what the proponents call “price gouging” by pharmaceutical companies. It would do so by requiring the state to purchase drugs at prices no higher than those paid by the V.A., a federal agency that purchases drugs at discounted prices. The difference between the prices paid by the state of California and the V.A. is a contested question. Proponents point to a study by the Congressional Budget Office that suggests the state pays 51 percent of market price for drugs purchased through the MediCal program, while the V.A. pays 42 percent of market price; others say California pays about the same as the V.A.¹ Many believe the financial stakes of this measure are high. As a result, the battle over Proposition 61 likely will be one of the most expensive this year.

¹ [https://ballotpedia.org/California_Proposition_61,_Drug_Price_Standards_\(2016\)](https://ballotpedia.org/California_Proposition_61,_Drug_Price_Standards_(2016))

Existing Law

The State of California purchases drugs through programs that cover retired state employees, state prisoners, and MediCal beneficiaries, among others. Because the state is a high volume purchaser, it is able to negotiate with pharmaceutical companies for reduced prices. Currently, there is no link between prices the state negotiates with pharmaceutical companies and prices negotiated by the V.A.

Proposed New Law

Proposition 61 would require the state to pay no more than the V.A. pays when indirectly or directly purchasing drugs, unless required through federal law or a specific exemption. This would include the Medi-Cal fee-for-service outpatient drug program and the state's AIDS Drug Assistance Program.

Fiscal Impact

The Legislative Analyst's Office has reported that it cannot predict with confidence what Prop. 61's financial impact would be since it cannot anticipate how pharmaceutical companies will respond if it passes. In one possible scenario, the state would save money if drug manufacturers reduce prices of drugs to V.A. levels, but those savings would be offset if manufacturers raise prices on drugs the state purchases but the V.A. does not. In another scenario, pharmaceutical companies could refuse to sell some drugs to the state at the new, lower prices. In a third scenario, manufacturers could raise V.A. drug prices, thereby maintaining their revenue and not creating savings for the state.

Supporters

The AIDS Healthcare Foundation and its founder Michael Weinstein led the effort to place Prop. 61 on the ballot. Organizations including the California Nurses Association and AARP California and individuals such as Sen. Bernie Sanders and former Labor Secretary Robert Reich have endorsed the measure. As of mid-August, the AIDS Healthcare Foundation had contributed more than \$14 million to the Yes-on-61 campaign, with additional funding coming from the California Nurses Association.

Arguments of Supporters

Proponents argue that the state should not have to pay more for drugs than the V.A. does. They say that Prop. 61 would help rein in out-of-control pharmaceutical prices and put a limit on how much big pharmaceutical companies can profit at the expense of patients and the state. They say Prop. 61 should save the state billions of dollars in the cost of purchasing prescription drugs, and would put downward pressure on all drug prices.

Opponents

Major pharmaceutical companies including Merck, Johnson & Johnson, Pfizer, Amgen, and AbbVie have combined to oppose the initiative. The California Medical Association and various veterans groups also oppose the measure. By mid-August, the pharmaceutical industry had contributed more than \$70 million to the No-on-61 campaign.

Arguments of Opponents

Opponents argue that the law would aid only about 12% of Californians covered under specific programs; the remaining 88% of Californians could be negatively affected since the pharmaceutical companies might raise prices on their drugs to compensate. Moreover, they say, Prop. 61 could harm veterans, since companies could work around the law by raising the cost of V.A. drugs. Furthermore, they say the measure's new bureaucratic procedures could hinder timely access to medicine for patients in need.

Conclusion

Voting Yes on Proposition 61 would require the state of California to purchase certain drugs at the same price as the V.A. pays, potentially reducing state costs, depending on the response of the pharmaceutical companies.

Voting No would maintain the status quo, under which the state negotiates drug prices independent of the V.A.

For more information on Proposition 61, visit:

www.RoseInstitute.org

www.yeson61.com

www.NoProp61.com