

PROPOSITION **MEDI-CAL HOSPITAL FEE PROGRAM.**  
**52** INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

**OFFICIAL TITLE AND SUMMARY**

PREPARED BY THE ATTORNEY GENERAL

- Extends indefinitely an existing statute that imposes fees on hospitals to obtain federal matching funds.
  - Uses fees to fund Medi-Cal health care services, care for uninsured patients, and children’s health coverage.
  - Requires voter approval to change use of fees or funds.
  - Permits other amendments or repeal by Legislature with a two-thirds vote.
  - Declares fee proceeds do not count as revenue toward state spending limit or Proposition 98 funding requirement.
- known whether the Legislature would have extended the hospital fee absent the measure.
- If the Legislature would have extended the hospital fee absent this measure, the measure would likely have relatively little fiscal effect on the state and local governments.
  - If the Legislature would *not* have extended the hospital fee absent the measure, the measure could result in state General Fund savings of around \$1 billion annually and increased funding for public hospitals in the low hundreds of millions of dollars annually.

**SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:**

- The fiscal effect of this measure is uncertain primarily because it is not

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**BACKGROUND**

**Overview of Medi-Cal and Hospitals**

***Medi-Cal Provides Health Care Benefits to Low-Income Californians.*** The Medi-Cal program provides health care benefits to low-income Californians who meet certain eligibility requirements. These health care benefits include services such as primary care visits, emergency room visits, surgery, and prescription drugs. Currently, Medi-Cal provides health care benefits to over 13 million Californians. Total spending on Medi-Cal in 2015–16 was roughly \$95 billion, of which about \$23 billion was from the state’s General Fund (its main operating account).

***Cost of Medi-Cal Is Shared Between the State and the Federal Government.*** For most costs

of the Medi-Cal program, the state and the federal government each pay half of the costs. In some instances, the federal government pays a greater share of the costs than the state. In order to receive federal funding for Medi-Cal, the state must follow various federal laws and requirements.

***Public and Private Hospitals Provide Care to People Enrolled in Medi-Cal.*** There are about 450 private and public general acute care hospitals (“hospitals”) licensed in California that provide services such as emergency services, surgery, and outpatient care to Californians, including those enrolled in Medi-Cal. About four-fifths of the hospitals are private and about one-fifth of the hospitals are public. Public hospitals are owned and operated by public entities such as counties or the University of California. Private hospitals are owned and operated by

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

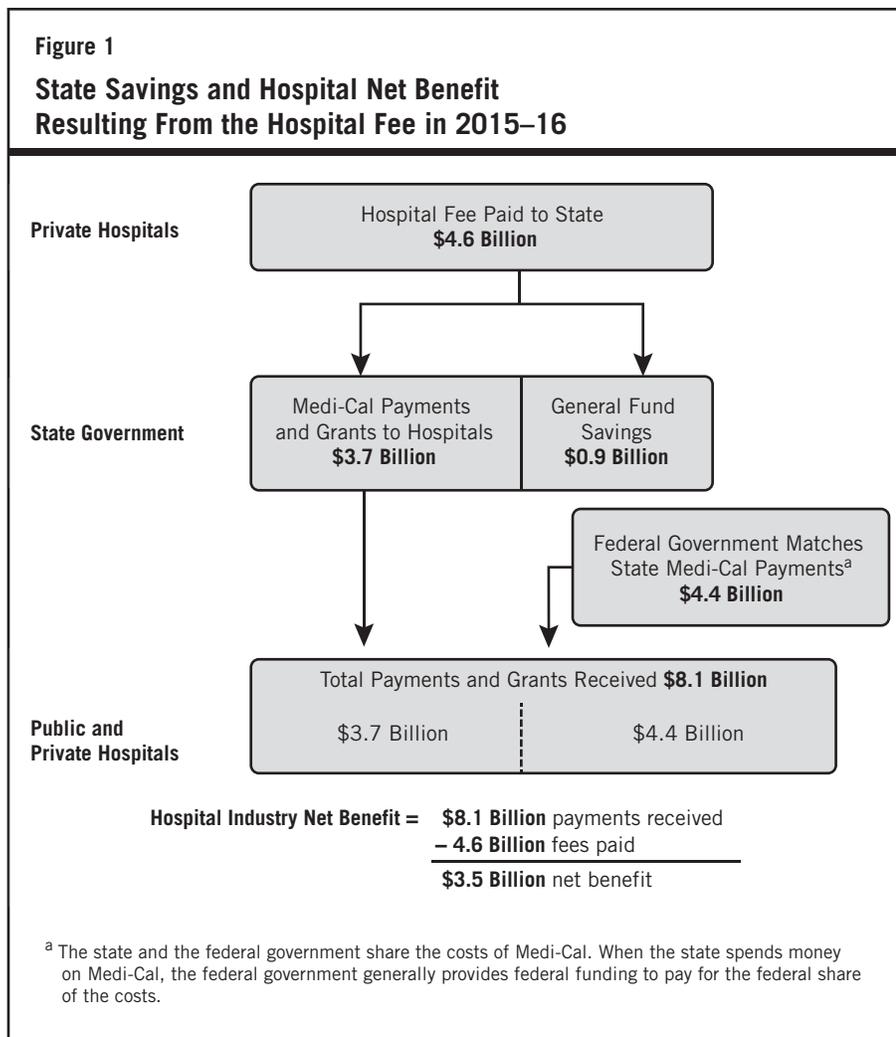
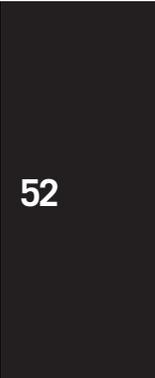
private entities, which can be nonprofit or for-profit.

**Hospital Quality Assurance Fee**

In recent years, the state has imposed a special charge on most private hospitals. This charge is called the Hospital Quality Assurance Fee (“hospital fee”). It has been collected since 2009. The charging of the hospital fee by the state is set to end on January 1, 2018. Figure 1 depicts the collection and use of hospital fee revenue in 2015–16. The fee revenue is used for two purposes: (1) to fund the state share of

increased Medi-Cal payments for hospitals and grants for public hospitals (\$3.7 billion in 2015–16) and (2) to generate state General Fund savings (\$850 million in 2015–16). The hospital fee revenue used for increased Medi-Cal payments was matched with \$4.4 billion in federal Medi-Cal funding, resulting in \$8.1 billion in total Medi-Cal payments and grants to hospitals in 2015–16.

**Hospital Fee Results in a Net Benefit to Hospital Industry.** As shown in Figure 1, the hospital industry received in 2015–16 a *net benefit* of \$3.5 billion as a result of the fee



ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

because the hospitals received \$8.1 billion in payments and paid \$4.6 billion in fees. Public hospitals in particular received a benefit of \$235 million in 2015–16, comprised of grants and increased Medi-Cal payments. (While the hospital industry as a whole received a net benefit, a small number of private hospitals paid more in fee revenue than they received in Medi-Cal payments.)

**Money From Hospital Fee Results in State Savings.** As shown in Figure 1, fee revenue is used to generate state General Fund savings. These savings occur because hospital fee revenue is used to pay for children’s health care services in Medi-Cal that would otherwise be paid using state General Fund money. (The state General Fund is supported primarily through taxes such as income and sales taxes.) The amount of fee revenue used to generate state General Fund savings is based on a formula in state law. In 2015–16, the state General Fund savings was about \$850 million.

**Legislature Has Extended Hospital Fee Several Times in the Past.** Since the fee began in 2009, the Legislature has extended it four times from the date that the fee was to end under law in place at the time. Consistent with this past practice, the Legislature could potentially enact a new law to extend the current hospital fee beyond January 1, 2018 (the date when the current fee ends).

**Any Extension of Hospital Fee Must Be Approved by Federal Government.** If the fee is extended beyond January 1, 2018 by the Legislature or by voters, the extension must also be approved by the federal government to receive federal funding. Federal government approval is required because the state uses hospital fee revenue to fund the state share of Medi-Cal payment increases to

hospitals, and the federal government also pays for part of these payment increases.

PROPOSAL

**Makes Hospital Fee Permanent.** While the hospital fee would otherwise end under current state law on January 1, 2018, Proposition 52 extends the current fee permanently. As with any extension of the hospital fee, the extension under this measure requires federal approval.

**Makes It Harder for the State to End Hospital Fee.** Under the measure, the state could end the hospital fee if *two-thirds* of each house of the Legislature votes to do so. Under current law, the fee can be ended with a *majority* vote in each house.

**Makes It Harder to Change the Hospital Fee.** Under the measure, changes to the hospital fee generally would require future voter approval in a statewide election. Under current law, changes to the fee can be made by the Legislature. For example, the Legislature can change the formula used to generate state General Fund savings. The measure does allow the Legislature—with a two-thirds vote of each house—to make certain specific changes, such as those necessary to obtain federal approval of the hospital fee.

**Excludes Money From Hospital Fee in Annual Calculation of School Funding.** The State Constitution requires certain formulas to be used to calculate an annual minimum funding level for K–12 education and California Community Colleges. These formulas take into account the amount of state General Fund revenue. As under current practice, the measure excludes money raised by the hospital fee in these calculations. The measure provides for this

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

exclusion in an amendment to the State Constitution.

**FISCAL EFFECTS**

The fiscal effect of this measure is uncertain primarily because it is not known whether the Legislature would have extended the hospital fee absent the measure. To date, the Legislature has extended the fee four times. Therefore, given past practice, it is possible the Legislature would have extended the hospital fee beyond January 1, 2018 in any case. There are also recent changes to federal law that may require changes to the structure of the hospital fee, and these could affect the fiscal impact of the hospital fee. Below, we describe the fiscal effect of this measure under two main scenarios:

- ***If Legislature Would Have Extended Hospital Fee Absent the Measure.*** In this case, the measure would likely have relatively little fiscal effect on the state and local governments (for the period over which the Legislature extended the fee). This is because the state would already be generating General Fund savings and providing funding to public hospitals. We note, however, that absent this measure the Legislature could change the structure of the hospital fee such that the General Fund savings and public hospital benefit could be different from what it has been.

- ***If Legislature Would Not Have Extended Hospital Fee Absent the Measure.*** In this case, the measure would have a major fiscal effect on the state and local governments. The fiscal effects under this scenario would likely be similar to those experienced recently (as adjusted for growth over time): (1) annual General Fund savings of about \$1 billion and (2) annual funding to the state and local public hospitals in the low hundreds of millions of dollars. The state and local governments also would realize some increased revenues as a result of the added federal funds brought into the state by the fee. These impacts, however, could be affected by new federal requirements that may require changes to the hospital fee. At this time, it is unclear what changes to the hospital fee would be necessary to comply with federal requirements. Any such changes could increase, decrease, or not change at all the impacts on the state and local governments.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

★ ARGUMENT IN FAVOR OF PROPOSITION 52 ★

YOUR YES VOTE ON PROPOSITION 52 WILL KEEP A GOOD IDEA WORKING—ONE THAT'S DOING A LOT OF GOOD FOR A LOT OF GOOD PEOPLE WHO NEED THE HELP.

*WHAT DOES PROPOSITION 52 DO?*

It does two things.

First, it extends the current Medi-Cal hospital fee program that generates more than \$3 billion a year in federal matching funds that would not be available otherwise. This money helps provide Medi-Cal health care services to over 13 million Californians, including:

- 6.7 million children;
- 1.6 million seniors with chronic diseases;
- 4.5 million low-income working families whose wages can't sustain them; and
- persons with disabilities.

Second, Proposition 52 strictly prohibits the Legislature from using these funds for any other purpose without a vote of the people.

That's it.

*WHO IS BEHIND THIS INITIATIVE AND WHY IS IT ON THE BALLOT?*

The Medi-Cal hospital fee program was initially enacted as a bi-partisan program by the Legislature in 2009. It has been renewed three times, but each time there have been attempts to divert the money to some other use. It has been placed on the ballot by California's over 400 local community hospitals in order to ensure that California continues to receive its fair share of federal matching funds for Medi-Cal in order to serve our most vulnerable citizens and to prevent the diversion of the funds for any other purpose.

*WHO IS SUPPORTING PROPOSITION 52?*

This Initiative has generated the unprecedented support of virtually all major health care, business, labor, and community organizations throughout the state. It is unlikely that a consensus coalition like this has ever been achieved before. For example, the California Teachers Association, California Building Trades Council, California Professional Firefighters and the Teamsters Union and over 30 local unions have joined with the California Chamber of Commerce, the California Business Roundtable, as well as advocacy organizations for children, seniors and the disabled. Additionally, it has been endorsed by both the state Democratic and Republican parties. In today's very contentious political environment, this alone is an amazing development.

*HOW DOES PROPOSITION 52 IMPACT CALIFORNIA TAXPAYERS?*

This measure GENERATES OVER \$3 BILLION IN AVAILABLE FEDERAL FUNDS WITH NO STATE COST TO CALIFORNIA TAXPAYERS.

By extending the current state Medi-Cal hospital fee the state will continue to receive more than \$3 billion a year in available federal matching funds for Medi-Cal. Without it, the shortfall will cause some community safety net hospitals to close.

Please VOTE YES ON PROPOSITION 52 TO KEEP A GOOD IDEA WORKING—THAT'S DOING A LOT OF GOOD FOR A LOT OF GOOD PEOPLE.

**C. DUANE DAUNER**, President  
California Hospital Association

**THERESA ULLRICH**, MSN, NP-C President  
California Association of Nurse Practitioners

**DEBORAH HOWARD**, Executive Director  
California Senior Advocates League

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 52 ★

PROP. 52 DOESN'T HELP ANYONE BUT HOSPITAL CEOs AND LOBBYISTS.

PROP. 52 IS A BAIT-AND-SWITCH: The money it claims to provide for children and seniors? They already get that money. California law *already provides* the more than \$3,000,000,000 in funding for healthcare services. Prop. 52 won't change that.

What Prop. 52 really does is change our Constitution to *permanently remove* any accountability, oversight, or guarantee that the \$3,000,000,000 be spent on healthcare by these CEOs and their lobbyists.

Why are they spending tens of millions on Prop. 52? Because they keep getting caught misusing our money:

- Hospital corporations profiting from Prop. 52 have been fined hundreds of millions of dollars for *fraudulent, unnecessary, or excessive Medi-Cal or Medicare billing*.
- Other hospital CEOs took those tax dollars meant for the poor and elderly and spent them on luxury car

leases, country club memberships, and multi-million dollar salaries for executives.

- Hospital CEOs sponsoring Prop. 52 make as much as \$153,000 EVERY WEEK.

All Prop. 52 does is remove any accountability or oversight on the very CEOs who have committed fraud and wasted precious tax dollars on luxury perks for themselves.

Don't get fooled by this complicated, unnecessary change to our Constitution. It is a special interest trick designed to eliminate oversight of greedy hospital CEOs and their lobbyists—at the expense of taxpayers and vulnerable Californians.

VOTE NO ON PROP. 52

[www.NoOn52.com](http://www.NoOn52.com)

**VIRGINIA ANDERS-ELLMORE**, Nurse Practitioner

**MICHELLE ROSS**, Healthcare Worker

**JOVITA SALCEDO**, Medi-Cal Beneficiary

★ ARGUMENT AGAINST PROPOSITION 52 ★

“Our health care dollars should be treating patients, not funding lavish perks for millionaire CEOs. *Prop. 52 takes resources from patients and communities and siphons it into the pockets of rich special interests, with no oversight, no accountability, and no guarantee it is even spent on health care.* That’s wrong and makes nurses’ and doctors’ jobs harder.”—*Virginia Anders-Ellmore, Nurse Practitioner*

- *Prop. 52 gives hospital CEOs a check worth more than \$3 billion—with no strings attached, no oversight, and no requirement the money is spent on health care.*
- *Prop. 52 gives more than \$3,000,000,000 to the same CEOs already being paid millions and using our tax dollars for perks like luxury car leases and golf fees, with zero accountability.*
- *Prop. 52 is great for hospital CEOs and their lobbyists, but bad for patients, low-income women and children, seniors, and veterans.*

The wealthy hospital CEOs and their lobbyists are spending millions—including our tax dollars—to trick you into believing Prop. 52 helps Medi-Cal patients. It doesn’t. It hurts the people who need it most and only helps hospital lobbyists and their overpaid CEOs.

This is what it really does:

- *Prop. 52 frees hospital CEOs and lobbyists from any oversight or accountability for how they spend the \$3,000,000,000 of taxpayer dollars they receive to treat low-income residents.*
- Forces the state to give billions in federal low-income health care benefits to hospitals with *no oversight, no accountability, and no guarantee it will be spent on health care at all*, let alone health care for low-income women, children, and seniors.
- These same CEOs and lobbyists have spent millions intended for low-income health care on overpriced

CEO salaries, luxury boxes at sporting events, country club memberships, payments to Wall Street investors, and other perks.

Here is what advocates for low-income patients say: “This initiative takes money from needy Californians and gives it to rich millionaires instead, with no oversight and no requirement it be spent on health care for poor people, or even health care at all. Our healthcare system is already broken—and this no-strings attached money grab by rich CEOs will only make it worse.”—*Michelle Ross, Healthcare Worker*

“I’m already struggling to make ends meet and can’t afford to take my children to the doctor. Now they want to take what little I have and give it to the special interests and corporations who run for-profit hospitals, no questions asked.”—*Jovita Salcedo, Medi-Cal Patient*

The corporate-funded California Hospital Association wrote Prop. 52 in order to permanently guarantee more than \$3,000,000,000 of our federal and state health care dollars go to them no matter what, *with no oversight and no guarantee it be spent on health care.*

*It rigs the system in favor of corporations and millionaires and hurts low-income women, children, and seniors. It eliminates oversight of how this \$3,000,000,000 in our tax money is spent and asks us to trust the CEOs and lobbyists instead.*

We need more oversight of CEOs, not less.

VOTE NO ON PROP. 52

[www.NoOn52.com](http://www.NoOn52.com)

**VIRGINIA ANDERS-ELLMORE**, Nurse Practitioner

**MICHELLE ROSS**, Healthcare Worker

**JOVITA SALCEDO**, Medi-Cal Beneficiary

52

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 52 ★

What Proposition 52 IS . . . and what it’s NOT. Prop. 52 is about providing access to Medi-Cal health care services for children, seniors and low-income families.

It simply EXTENDS the CURRENT state Medi-Cal hospital fee that generates over \$3 billion a year in federal matching funds that pay for that care.

Proposition 52 IS NOT ABOUT COMPENSATION OR SALARIES.

Who is FOR Proposition 52 . . . who is AGAINST?

Go to [www.YesProp52.org](http://www.YesProp52.org) for the entire list of nearly 1,000 supporters, but here is a representative sample: California Hospital Association; California Teachers Association; California Chamber of Commerce; California Building Trades Council; California State Association of Counties; California Labor Federation; the California Business Roundtable; California Professional Firefighters; as well as advocacy organizations for children, seniors and the disabled.

There is ONLY ONE SMALL ORGANIZATION FUNDING OPPOSITION TO 52. Its representative testified to

lawmakers that the LEGISLATURE SHOULD HAVE THE POWER TO DIVERT HEALTH CARE DOLLARS to other purposes.

We vigorously disagree.

Proposition 52, PROHIBITS THE LEGISLATURE FROM DIVERTING these funds to any other purposes WITHOUT a VOTE OF THE PEOPLE.

Medi-Cal has been caring for Californians for over 50 years. Today over thirteen million are touched, cared-for, healed and made healthier because of Medi-Cal and it’s made stronger by a good idea that’s working.

That good idea is Proposition 52.

Please vote YES on 52.

**ANN-LOUISE KUHNS**, President  
California Children’s Hospital Association

**GARY PASSMORE**, Vice President  
Congress of California Seniors

**DR. SHANNON UDOVIC-CONSTANT**, Trustee  
California Medical Association