

**LEAGUE OF WOMEN VOTERS OF CALIFORNIA**

# **ACTION GUIDE**

*action on ballot measures*

**GENERAL  
ELECTION**

**November 2, 2004**

**VOTE WITH THE  
LEAGUE!**



League of Women Voters of California  
801 12th Street, Suite 220  
Sacramento, CA 95814  
916-442-7215 ■ 916-442-7362, Fax  
lwvc@lwvc.org ■ www.lwvc.org

# **ACTION GUIDE**

## **ACTION ON BALLOT MEASURES**

**General Election**

**November 2, 2004**

Press Date: September 1, 2004

**Local League Action  
Can Make the  
Difference!**

League of Women Voters of California  
801 12th Street, Suite 220, Sacramento, CA 95814  
916-442-9210, Fax 916-442-7362  
888-870-VOTE (8683)  
lwvc@lwvc.org  
www.lwvc.org

Jacqueline Jacobberger, President

Marion Taylor, Legislation Director

Trudy Schafer, Program Director/Advocate

# **ACTION GUIDE**

## **ACTION ON BALLOT MEASURES**

**General Election—November 2, 2004**

### **LEAGUE ACTION ON NOVEMBER 2004 BALLOT MEASURES**

When League acts, people listen. Through your work, we have earned a high degree of credibility with the public. Local action also makes the League visible in our communities. We know that vibrant Leagues attract and retain members.

Included in this *Action Guide* is information on the three November 2, 2004 ballot measures on which the LWVC has taken positions, along with sample letters to the editor and a flyer (distributed separately as well) for use in League VOTERS and as a handout. We encourage local Leagues to become involved in campaigns for all measures. They are important measures on which we have clear positions. The LWVC has signed ballot arguments on one of them.

We support two measures: Proposition 59, which adds to the State Constitution the requirement that meetings of public bodies and writings of public officials and agencies be open to public scrutiny, and Proposition 72, which would allow the provisions of a 2003 law (SB 2) to go into effect allowing an estimated 1 million uninsured employees and dependents to receive health coverage.

We oppose Proposition 69, which expands the collection of DNA to include all convicted felons and some nonfelons, as well as, beginning in 2009, all adults arrested for or charged with any felony.

In some cases, local Leagues can work with a well-organized, well-funded campaign which offers materials, speaker training, etc. Consult RESOURCES under each measure for the campaign committee's contact information. You can also look at the list of supporters or opponents of each measure at the campaign Web site to see whether it includes organizations with which you might work locally.

As always, local Leagues may not take action on state measures on which we have not taken a stand, nor may they act contrary to any LWVC stand. They should make sure they do not lend their name to statements that are not consistent with the LWVC's stated reasons for supporting a measure. Local Leagues should also confine their activity to their own area, and should not allow a campaign to use their local League name in a statewide mailing, in place of the LWVC's.

The flyer summarizing the League's stand on each of the measures will be posted on the LWVC Web site, [www.lwvc.org](http://www.lwvc.org), with links to the *Action Guide* sections appropriate for public use. The entire *Action Guide* will be posted on the members-only section of the LWVC Web site, [www.lwvc.org/lwvonly/](http://www.lwvc.org/lwvonly/).

**The League is neutral on thirteen of the sixteen November ballot measures.**

Seven measures address issues which the League has not studied. For them we have no positions on which to take action. These measures are

- Prop. 60 Election Rights of Political Parties
- Prop. 62 Elections. Primaries
- Prop. 64 Limits on Private Enforcement of Unfair Business Competition Laws
- Prop. 66 Limitations on "Three Strikes" Law. Sex Crimes. Punishment
- Prop. 68 Non-Tribal Commercial Gambling Expansion. Tribal Gaming Compact Amendments. Revenues, Tax Exemptions
- Prop. 70 Tribal Gaming Compacts. Exclusive Gaming Rights. Contributions to State
- Prop. 71 Stem Cell Research. Funding. Bonds.

Six measures concern issues which the League has studied. However, we have conflicting positions relating to specific provisions of the measures. The LWVC Board studied these measures carefully and decided to take a neutral stand because of the conflicting positions. These measures are

- Prop. 60A Surplus Property. The League might well oppose this measure on the basis of our opposition to earmarking funds. The courts separated this measure from Prop. 60 in order to enforce the single subject law for ballot measures. 60A was a sweetener for Prop. 60, the legislature' s primary election measure. The LWVC Board did not think it worth while to expend energy opposing Prop. 60A.
- Prop. 61 Children' s Hospital Projects. Grant Program. Bond Act. The League position on bond financing assumes we are only considering state or local government projects, not private hospitals.
- Prop. 63 Mental Health Services Expansion, Funding. Tax on Personal Incomes Above \$1 Million. Conflict between supporting "an adequately funded mental health care position," and State and Local Finances positions which oppose earmarking funds, along with long-term support for reinstating the top state personal income tax rates of 10% and 11% as a key General Fund revenue source.
- Prop. 65 Local Government Funds, Revenues. State Mandates
- Prop. 1A Protection of Local Government Revenues  
These two measures have to be considered together. Prop. 65 was initiated by local government officials and has been supplanted with Prop. 1A which resulted from an agreement between those officials, the legislature and the governor. Various League positions, especially on State and Local Finances, are in conflict relating to the many specific provisions of these measures. The LWVC Board decided to be neutral on both measures.
- Prop. 67 Emergency Medical Services. Funding. Telephone Surcharge. Conflict between support for improved health care and opposition to earmarking new revenue with no provision for future review.

## SUGGESTIONS FOR LOCAL LEAGUE ACTION

- ✓ recruit volunteers so that no one person has an unreasonably heavy job
- ✓ watch for community events where you can provide materials or a speaker, staff a booth, etc.
- ✓ send letters to the editor
- ✓ respond to letters to the editor written by the opposition
- ✓ write articles for your VOTER
- ✓ distribute flyers or cards
- ✓ activate an email or phone tree to urge members and friends to "Vote with the League" and promote the campaign's Web site
- ✓ get endorsements from other community groups, your city council, board of supervisors, etc.
- ✓ speak on radio and TV panel discussions and talk shows
- ✓ monitor talk shows and call in to make sure our points are presented
- ✓ send speakers to community groups
- ✓ issue press releases
- ✓ submit an op-ed column to your local newspaper (check with the campaign or ask for samples)
- ✓ help staff a phone bank

## ADVOCACY VS. VOTERS SERVICE

The community respects the League for its objectivity and grassroots involvement, as well as for its nonpartisanship. However, sometimes the community and our own members are confused about League's two roles: **voters service** and **advocacy**.

The League is always nonpartisan: It does not support or oppose candidates or political parties. However, we are political because we support and oppose legislation, lobby legislators and take stands on ballot measures.

How can we keep voters service and advocacy from overlapping? Make sure the same person isn't doing both activities. A League member who has been visible advocating for or against a ballot measure should avoid being visible in a voters service capacity, and the voters service director should be involved only in voters service functions.

If asked during a pro/con meeting about the League's position on a ballot measure, you may state it briefly but should not enlarge on it or engage in debate. You may say that this is a pro/con forum and you would be willing to talk to anyone about the League's stand on issues after the meeting.

If you have questions or suggestions on any part of this *Action Guide*, please contact:

Marion Taylor, LWVC Legislation Director  
239 Alamo Avenue, Santa Cruz 95060  
831-427-2350, fax same  
mtaylor@sbcglobal.net





**THE LEAGUE OF WOMEN VOTERS  
RECOMMENDS  
NOVEMBER 2, 2004 GENERAL ELECTION**

**✓ YES ON PROPOSITION 59                      GOVERNMENT OPEN TO THE PEOPLE**  
*Support Proposition 59—Public Records. Open Meetings.*

This measure will add to the State Constitution the requirement that meetings of public bodies and writings of public officials and agencies be open to public scrutiny. California's open government laws have been weakened by special interest legislation, court decisions that put the burden on the public to justify disclosure, and government officials who want to avoid scrutiny and keep secrets. Prop. 59 establishes a new civil right of access to meetings of government bodies and writings of government officials. It protects personal privacy and allows reasonable exceptions in the public interest. Citizens should not have to prove to government officials why they should have access to "public" records and procedures. Prop. 59 shifts the burden, requiring government officials to prove their need for secrecy.

For more information: [www.yesonprop59.org](http://www.yesonprop59.org)

**✗ NO ON PROPOSITION 69                      FIGHT ATTACK ON PRIVACY RIGHTS**  
*Oppose Proposition 69—DNA Samples. Collection. Database. Funding.*

More than a fingerprint, DNA exposes personal, private medical information about you and your family. California already has a DNA database for criminals who have committed sexual assault and other serious, violent crimes. Proposition 69 would expand the collection of DNA to include all convicted felons and some nonfelons, and, beginning in 2009, all adults *arrested* for *any* felony. This expansion is an invasion of privacy not needed for criminal justice. Once individuals are put into the criminal DNA database, they must request a court order to be removed—even if they are factually innocent and never charged with a crime—and the government has no obligation to remove them. Prop. 69 violates the principle that one is innocent until proven guilty.

For more information: [www.protectmydna.com](http://www.protectmydna.com)

**✓ YES ON PROPOSITION 72                      SUPPORT CALIFORNIA HEALTH CARE**  
*Support Proposition 72—Health Care Coverage Requirements. Referendum.*

Prop. 72 allows a 2003 law (SB 2) to go into effect, giving health coverage to a million uninsured employees and dependents. Prop 72 requires large and mid-sized employers to provide health benefits or contribute to a statewide purchasing pool. About 80 percent of those who will be covered are employees of large companies (200 or more workers) and their families. Small businesses with under 50 employees are exempt from Proposition 72. Rising healthcare costs are a concern to all Californians. Prop 72 will help employees by limiting their share of premiums and out-of-pocket costs; it gives employers marketing power to lower premiums. It will level the playing field for companies that provide health insurance benefits but have to compete against those who don't.

For more information: [www.yesonprop72.com](http://www.yesonprop72.com)

**VOTE WITH THE LEAGUE ON NOVEMBER 2**

# LEAGUE OF WOMEN VOTERS OF CALIFORNIA

## SUPPORTS

### Proposition 59—Public Records, Open Meetings Legislative Constitutional Amendment

#### DESCRIPTION from the Legislative Analyst's Office (LAO)

This measure adds to the State Constitution the requirement that meetings of public bodies and writings of public officials and agencies be open to public scrutiny. The measure also requires that statutes or other types of governmental decisions, including those already in effect, be broadly interpreted to further the people's right to access government information. The measure, however, still exempts some information from disclosure, such as law enforcement records. Under the measure, future governmental actions that limit the right of access would have to demonstrate the need for that restriction.

The measure does not directly require any specific information to be made available to the public. It does, however, create a constitutional right for the public to access government information. As a result, a government entity would have to demonstrate to a somewhat greater extent than under current law why information requested by the public should be kept private. Over time, this change could result in additional government documents being available to the public.

#### BACKGROUND from the LAO

The State Constitution generally does not address the public's access to government information. California, however, has a number of state statutes that provide for the public's access to government information, including documents and meetings.

**Access to Government Documents.** There are two basic laws that provide for the public's access to government documents:

- *The California Public Records Act* establishes the right of every person to inspect and obtain copies of state and local government documents. The act requires state and local agencies to establish written guidelines for public access to documents and to post these guidelines at their offices.
- *The Legislative Open Records Act* provides that the public may inspect legislative records. The act also requires legislative committees to maintain documents related to the history of legislation.

**Access to Government Meetings.** There are several laws that provide for the public's access to government meetings:

- *The Ralph M. Brown Act* governs meetings of legislative bodies of local agencies. The act requires local legislative bodies to provide public notice of agenda items and to hold meetings in an open



forum.

- ***The Bagley-Keene Open Meeting Act*** requires that meetings of state bodies be conducted openly and that documents related to a subject of discussion at a public meeting be made available for inspection.
- ***The Grunsky-Burton Open Meeting Act*** requires that meetings of the Legislature be open to the public and that all persons be allowed to attend the meetings.

**Some Information Exempt From Disclosure.** While these laws provide for public access to a significant amount of information, they also allow some information to be kept private. Many of the exclusions are provided in the interest of protecting the privacy of members of the public. For instance, medical testing records are exempt from disclosure. Other exemptions are provided for legal and confidential matters. For instance, governments are allowed to hold closed meetings when considering personnel matters or conferring with legal counsel.

\* \* \* \* \*

The LWVC has supported efforts to place this California “Sunshine Amendment” on the ballot during the last two legislative sessions. During that time the author, Senate President pro Tempore John Burton, and sponsors (California First Amendment Coalition and California Newspaper Publishers Association) worked with potential opponents to address concerns for protection of law enforcement investigations, proprietary information disclosed to government agencies for regulatory purposes, and privacy rights. These negotiations led to widespread support and passage of SCA 1 (Resolution Chapter 1, Statutes of 2004) in early 2004, placing Proposition 59 before the voters.

## **LEAGUE POSITIONS**

LWVUS position on the Citizen' s Right to Know: "The League . . . believes that governmental bodies must protect the citizen' s right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible."

LWVC position on Intergovernmental Relationships: "Active participation by the public in state and local government, which entails the right and responsibility to be informed, to be heard, and to be involved not only in, but beyond elections; and which requires that officials make decisions openly and that they provide broadly publicized, convenient opportunities for participation by the public in the process."

## **POINTS TO STRESS**

- Prop. 59 makes government accountable. Citizens must know what the government is doing and how decisions are made in order to make the government work for us.
- Prop. 59 gives Californians a new civil right by putting into the state constitution the requirement that government hold open meetings and make public records accessible.

- California's current open government laws—such as the California Public Records Act, the Ralph M. Brown Act, and the Bagley-Keene Open Meetings Act—have been weakened, in some cases to the point of near impotency, by a myriad of court decisions, broad administrative interpretations, and "follow-up" legislation. Prop. 59 puts the right to open government into the constitution, safeguarding these laws from actions that weaken them.
- Prop. 59 protects personal privacy and will allow reasonable exceptions to the open government provisions of the constitution, if they are in the public interest.
- Citizens should not have to prove to government officials why they should have access to "public" records and procedures. Prop. 59 shifts this burden, requiring government officials to prove their need for secrecy.

<b>SUPPORTERS</b>	<b>OPPONENTS</b>
<p>Signing ballot arguments for:</p> <p>Mike Machado California State Senator</p> <p>Jacqueline Jacobberger, President League of Women Voters of California</p> <p>Peter Scheer, Executive Director California First Amendment Coalition</p> <p>Thomas W. Newton, General Counsel California Newspaper Publishers Association</p> <p>John Russo, City Attorney City of Oakland</p>	<p>There is no organized opposition to Proposition 59. Ballot arguments in opposition were signed by Gary B. Wesley, Attorney at Law.</p>

**RESOURCES**

Marion Taylor, LWVC Legislation Director, 239 Alamo Avenue, Santa Cruz 95060, 831-427-2350, mtaylor@sbcglobal.net

Jacqueline Jacobberger, LWVC President, 2231 Delvin Way, South San Francisco 94080, 650-871-6357, jhjacobberger@att.net

Coalition for Open Government, [www.yesonprop59.org](http://www.yesonprop59.org)

## **SAMPLE LETTER TO THE EDITOR**

Note: Please adapt this letter to your own community, perhaps adding local examples of the need for Prop. 59. Check your local paper' s word limit for published letters.

Editor:

Proposition 59 gives the public and the press access to government information, while at the same time preserving Californian' s rights to privacy.

Everyone needs to know what government is doing. Why was a building permit granted, or denied? Who is the Governor considering for appointment to a vacancy on the County Board of Supervisors? Why was the superintendent of the school district fired, and who is being considered as a replacement? Who did the City Council talk to before awarding a no-bid contract?

The League of Women Voters believes that governmental bodies must protect the citizen' s right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible.

California' s open government laws have been eroded by special interest legislation, by courts putting the burden on the public to justify disclosure, and by government officials who want to avoid scrutiny and keep secrets.

Proposition 59 puts open government into the state constitution. It will make transparency a constitutional duty owed to the people to whom officials are accountable.

Vote YES on Prop. 59 to make open government a constitutional right.

Sincerely,

(name of president)

President

League of Women Voters of \_\_\_\_\_

# LEAGUE OF WOMEN VOTERS OF CALIFORNIA

## OPPOSES

### Proposition 69—DNA Samples. Collection. Database. Funding Initiative Statute

**DESCRIPTION** (including excerpts from the Legislative Analyst's Office [LAO] Voter Information Guide analysis)

This initiative expands the collection of DNA to include all convicted felons and some nonfelons, as well as individuals arrested for certain offenses.

Upon enactment of Proposition 69, DNA would be collected from

- Adults and juveniles convicted of *any* felony offense
- Adults and juveniles convicted of *any* sex offense or arson offense, or an attempt to commit any such offense (not just felonies)
- Adults *arrested* for or charged with felony sex offenses, murder or voluntary manslaughter (or the attempt to commit such offenses).

Additionally, starting in 2009 DNA would be collected from

- Adults *arrested* for or charged with *any* felony offense.

The expanded list of qualifying offenses would be retroactive regardless of when the person was convicted (adults) or adjudicated (juveniles). As a result, DNA would be obtained from adults and juveniles already serving time in correctional facilities as well as those who are on parole or probation for these offenses.

Immediately following either arrest or conviction, state or local law enforcement personnel would be required to collect a sample of inner cheek cells of the mouth (known as a "buccal swab" sample). This sample would be in addition to the right thumbprint and full palm print impression of each hand required by current law. Also, state and local law enforcement would continue to have the authority to collect blood samples upon request by the California Department of Justice (DOJ).

This measure raises existing criminal penalties to fund the proposed expansion of DNA collection: an additional \$1 would be levied for every \$10 in penalties, with revenues shared by the state and local governments. The state would receive 70 percent of the revenue in the first two years, 50 percent in the third year, and 25 percent annually thereafter. Local government would receive the difference to support DNA sample collection, as well as other related activities such as analysis, tracking, and processing of crime scene samples.

DNA samples from those not convicted of a felony will be destroyed only if the arrestee makes a request through a formal petition to the court in the county where she/he was arrested. This court can deny the request; there is no appeal of the court's decision.

## **BACKGROUND**

In 2003 state felony arrests totaled 507,081, according to the state attorney general. Statistics show that approximately one third of those arrested would have the charges dismissed or be found not guilty in a court of law.

The purpose of collecting DNA samples is to help solve crimes by comparing stored DNA of known offenders to DNA evidence from other crimes. The expansion of DNA collection to those *arrested* for specified crimes and, in 2009, to all adults arrested for *any* felony imposes a large workload on state DNA laboratories and mandates a careful program for destroying the samples of those not convicted of crimes. Moreover, Proposition 69 will apply retroactively, requiring DNA samples from persons in prison or on probation or parole with a felony record—more than 500,000 people.

Drawing a DNA sample is not the same as taking a fingerprint. The ACLU points out that "Fingerprints are two-dimensional representations of the physical attributes of our fingertips. They are useful only as a form of identification. DNA profiling may be used for identification purposes, but the DNA itself represents far more than a fingerprint. Indeed, it trivializes DNA data banking to call it a genetic fingerprint." They also point out that "the amount of personal and private data contained in a DNA specimen makes its seizure extraordinary in both its nature and scope. The DNA samples that are being held by state and local governments can provide insights into the most personal family relationships and the most intimate workings of the human body, including the likelihood of the occurrence of over 4,000 types of genetic conditions and diseases. DNA may reveal private information such as legitimacy at birth and there are many who will claim that there are genetic markers for aggression, substance addiction, criminal tendencies and sexual orientation."

States have moved in less than a decade from collecting DNA from convicted sex offenders, on the theory that they are likely to repeat their crimes and that they frequently leave biological evidence, to data banks of all violent offenders, to all persons convicted of a crime, including juvenile offenders, and now to this proposal to collect DNA samples from everyone arrested or charged with any felony offense. The potential invasion of privacy inherent in DNA collection is sufficient reason to oppose this initiative. Louisiana is currently the only state which collects DNA from all persons arrested for felonies.

Current law requires the Department of Justice to routinely purge DNA profiles of people who do not belong in the database. Proposition 69 relieves the DOJ from taking responsibility for clearing innocent people and shifts responsibility to the individual to navigate the government bureaucracy and secure the removal of his/her DNA from the database.

## **LEAGUE POSITIONS**

The LWVUS Position on Individual Liberties states belief in the individual liberties guaranteed by the Constitution of the United States. The League is convinced that individual rights now protected by the Constitution should not be weakened or abridged.

The LWVC Juvenile Justice position: Efforts to . . . provide juvenile justice should: reinforce a young person' s right to . . . justice and intervene in (his/her) life in the least intrusive . . . yet effective way.

## POINTS TO STRESS

- Expanding collection of DNA samples to persons arrested for or charged with any felony is an invasion of privacy not needed for criminal justice. Once individuals are put into the criminal DNA database, they must request a court order to be removed—even if they are factually innocent and never charged with a crime—and the government has no obligation to remove them. Each year in California, more than 50,000 felony arrests do not result in criminal charges.
- More than a fingerprint, an individual's DNA exposes the most intimate details of an individual's body and family medical history. DNA can reveal a person's predisposition to some medical and psychological conditions. Experts have documented cases where people have lost their job or health insurance based on genetic predictions.
- Prop. 69 violates the principle that one is innocent until proven guilty. Although arrestees who are not convicted can later have their DNA removed from the state database, the process for doing this is not automatic. The arrestee must initiate the process.
- DNA evidence is not a sure-fire legal tool. Genetic evidence does not "prove" innocence or guilt. Supposedly infallible DNA evidence is subject to human error through mishandling, contamination and misinterpretation. A skillful lawyer can shatter a case built on a DNA "match."
- California should not pay for the enormous costs of gathering and maintaining the new database, at a time when it is a struggle to fund basic police and fire protection. The huge expansion, including the immediate testing of more than 500,000 Californians, could cost the state more than \$100 million each year, in view of current operating costs and arrest rates. It is also likely to increase error rates in DNA testing and analysis.
- The Council for Responsible Genetics, a Cambridge, Massachusetts-based nonprofit, issued a proposed "Genetic Bill of Rights" in 2000. Article 7 says all people should be able to prevent the taking or storing of bodily samples for genetic information without their voluntary informed consent. In proposals like Proposition 69, U.S. society is setting precedents for how highly this right will be valued, or if it will be respected at all. The problem is not the use of DNA in courtrooms, in legal actions to exonerate the innocent or as a part of police work. Those uses already are common, often with the consent of those submitting DNA. The issue is who will be forced to give up their genetic information. If arrestees have the right to remain silent, shouldn't they also have the right to keep their DNA to themselves?

<b>SUPPORTERS</b>	<b>OPPONENTS</b>
Signing ballot arguments for:	Signing ballot arguments against:
Arnold Schwarzenegger, Governor of California	Beth Givens, Privacy Rights Clearinghouse
Bill Lockyer, California State Attorney General	Bob Barr, Privacy and Freedom Center, American Conservative Union
Steve Cooley, Los Angeles County District Attorney	Paul Billings, Council for Responsible Genetics

The rebuttal to the supporters' argument was signed by Ronald E. Hampton, National Black Police Association, and Bob Barr.

Other organizations opposing Proposition 69 include the LWVC; Children' s Defense Fund; California Labor Federation, AFL-CIO; American Civil Liberties Union branches in California; California State Conference of the NAACP, Center on Juvenile and Criminal Justice; Lutheran Office of Public Policy–California; Service Employees International Union, California State Council; and Youth Law Center.

## **RESOURCES**

Marion Taylor, LWVC Legislation Director, 239 Alamo Avenue, Santa Cruz 95060, 831-427-2350, mtaylor@sbcglobal.net

Trudy Schafer, LWVC Program Director/Advocate, 801 12th Street, Suite 220, Sacramento 95814, 916-442-9210, tschafer@lwvc.org

No on Proposition 69, 415-621-1192, **www.protectmyDNA.com**. Ask the campaign to help you with educational forums, letters to the editor, op-ed articles, etc.

## **SAMPLE LETTER TO THE EDITOR**

Note: Please adapt this letter to your own community and check your local paper' s word limit for published letters.

Editor:

Collecting DNA samples can help solve crimes by comparing stored DNA of known offenders to DNA evidence from other crimes. Right now California law requires collecting DNA samples from persons convicted of certain sex offenses or other violent crimes.

Proposition 69 would expand collection of DNA samples to include all persons, including juveniles, convicted of ANY felony offense, and from 2009 on, all adults **ARRESTED OR CHARGED** with ANY felony offense.

About 500,000 people are arrested for felonies each year; about one third of the cases do not result in convictions. Anyone not convicted of a felony who wants her/his DNA removed from the state database, under Prop. 69, must initiate a petition; if it is denied, there is no appeal. This is a remarkable invasion of privacy.

A recent Stanford University study showed that even sophisticated laboratories make errors up to 3 percent of the time. If DNA is collected for 500,000 people a year, it' s possible that 15,000 people would have their name associated with the wrong sample.

Vote NO on Prop. 69. Californians do not need this radical, costly, and dangerous expansion of DNA sample collection. Our current system serves us well.

Sincerely,

(name of president)

President

League of Women Voters of \_\_\_\_\_



## LEAGUE OF WOMEN VOTERS OF CALIFORNIA

### SUPPORTS

#### **Proposition 72—Health Care Coverage Requirements Referendum**

**DESCRIPTION** (including excerpts from the Legislative Analyst's Office [LAO] Voter Information Guide analysis)

In 2003, the Legislature approved and the Governor signed Senate Bill 2 (Burton) (Chapter 673, Statutes of 2003) to expand health insurance coverage beginning in 2006 for employees of certain employers and, in some cases, their dependents. The law also established a program to assist lower-income employees with paying their share of health care premiums.

The League of Women Voters of California supported SB 2 as a significant step toward the goal of providing access to a basic level of quality health care for all California residents.

The new law would have gone into effect January 1, 2004. However, Proposition 72, a referendum on this new law, subsequently qualified for the statewide ballot. As a result, SB 2 was put "on hold" and will take effect only if Proposition 72 is approved by the voters at the November 2004 election.

Health care researchers have estimated that the provisions of SB 2 could eventually result in more than 1 million uninsured employees and dependents receiving health coverage. The major provisions of SB 2 are described below.

#### **“Pay or Play” Requirement for Employers**

Senate Bill 2 enacts a “pay or play” system of health coverage for employers of 50 or more employees. These employers would be required to pay a fee to the state to provide health insurance (in other words, “pay”) for their employees and in some cases, for their dependents. Alternatively, the employer could choose to arrange directly with health insurance providers for coverage (in other words, “play”) for these individuals.

Both “pay” and “play” employers are required to pay a fee to the state to support a state health insurance purchasing program. Employers choosing to arrange their own health coverage (in some cases by continuing or modifying the coverage now provided to their employees) would receive a credit that would fully offset their fee. In order for an employer to qualify for a fee offset, the employer would have to provide specified types of coverage. Employers would be responsible for at least 80 percent of the cost of the fee, with the balance borne by their employees. The fee would be collected from employers and the fee requirements enforced by the Employment Development Department (EDD).

Senate Bill 2 would generally apply to both private and public employers, including state government, counties, cities, special districts, and school districts.

Federal law, known as the Employee Retirement Income Security Act (ERISA), has been interpreted by

the courts to generally prohibit states from requiring certain employers to provide health insurance coverage to their employees. As a result, it is possible that the “pay or play” provisions of SB 2 could be challenged in court. The LAO’s analysis assumes that the “pay or play” provisions would go into effect.

### **Who Would Provide and Receive Coverage?**

The requirements depend on the number of employees in California.

- Employers of 200 or more employees would be required to provide health benefits for employees and dependents starting January 1, 2006.
- Employers of 50 to 199 employees would be required to provide health benefits for employees only, starting January 1, 2007.
- Employers of 20 to 49 employees would be required to provide health benefits for employees, but only if the California legislature enacts a specified tax credit to subsidize their costs. These employers are currently exempt from the provisions of SB 2.
- Employers of 19 or fewer employees would have no requirements concerning health care benefits.

### **Contributions by Employees**

Employees would generally be required to make a contribution of up to 20 percent of the amount of the fee charged by the state to their employer. Contributions paid by employees would be collected by their employer and transferred to the state.

Low-income employees would have their contributions capped at 5 percent of their wages. Senate Bill 2 defines a low-income employee as an individual who earned wages of less than 200 percent of the federal poverty guidelines—currently about \$19,000 a year in the case of an individual, and about \$31,000 a year in the case of an employee and his or her family.

In addition to these contributions, employees could also be charged part of the additional costs for their coverage in the form of deductibles, copayments, or coinsurance payments in amounts determined by the state. These charges would have to be set at a level that took into account whether the persons would be deterred from obtaining appropriate and timely health care.

### **State Health Purchasing Program**

Senate Bill 2 creates the State Health Purchasing Program to purchase health care coverage for eligible California employees (and their dependents) of employers who opt to pay a fee instead of arranging for health insurance. The purchasing program would be administered by MRMIB. The coverage would have to meet existing state standards for health insurance, such as the inclusion of hospital and primary care, and would also include coverage for prescription drugs.

## **State Premium Assistance**

Senate Bill 2 establishes a program to pay the premiums for health coverage provided through the workplace for low-income employees who are eligible for Medi-Cal or the Healthy Families Program. This provision applies to eligible employees for all California employers, and not just those employees of employers affected by the “pay or play” requirements of SB 2. So, for example, eligible employees of employers that provide health coverage and that have fewer than 20 employees would qualify for premium assistance.

Employees and their families receiving premium assistance would also receive what is known as “wraparound” coverage from the state. In this case, it means that the state would provide and pay for any additional medical services for an employee or their family that were included in either the Medi-Cal or Healthy Families benefit package (such as dental coverage), but that were not included in the health coverage provided by the employer.

## **Health Insurance Marketing Provisions**

Senate Bill 2 expands to medium-sized employers a series of provisions now in state law that are intended to make it easier and more affordable for small employer groups to purchase health coverage.

## **Fiscal Effects**

The health coverage requirements of SB 2 would have a number of significant fiscal effects on state and local governments . . . [and] on individuals and businesses. These effects are complex, uncertain, and difficult to predict over time. . . . Given these uncertainties, the Legislative Analyst believes that the net savings or costs to the state and local governments are unknown.

## **BACKGROUND** from the LAO

### **Health Coverage in California**

A majority of Californians under age 65 receive health insurance through their employer or the employer of a family member. Most Californians age 65 and over are covered by the federal Medicare Program. Others purchase health insurance for themselves. Many individuals receiving coverage share in the cost of the premiums paid for their health insurance.

Many low-income persons obtain health care services through the Medi-Cal Program, the Healthy Families Program, or other public programs operated by the state and county governments. Medi-Cal is administered by the state Department of Health Services (DHS), while the Healthy Families Program is administered by the state Managed Risk Medical Insurance Board (MRMIB). However, based upon a 2001 survey, an estimated 6.3 million nonelderly Californians lacked health coverage at some point during the year. These individuals are likely to receive medical assistance from county indigent health care programs or through the charitable activities of health care providers or pay for it themselves. Surveys indicate that of the nonelderly uninsured individuals, more than four out of five are either employed or are family members of someone who is working.

Some of the medical costs incurred by uninsured persons are indirectly shifted by health care providers to others who have health coverage, in effect adding to the cost of their health insurance. There are also indications that the number of employees who are uninsured may be adding to the costs of workers' compensation insurance, which includes medical coverage for on-the-job injuries.

## **LEAGUE POSITIONS**

**LWVUS position on Health Care: GOALS:** The League of Women Voters of the United States believes that a basic level of quality health care at an affordable cost should be available to all U.S. residents. Other U.S. health care policy goals should include the equitable distribution of services, efficient and economical delivery of care, . . .

Every U.S. resident should have access to a basic level of care that includes the prevention of disease, health promotion and education, primary care (including prenatal and reproductive health), acute care, long-term care and mental health care. . . .

As the United States moves toward a national health insurance plan, an employer-based system of health care reform that provides universal access is acceptable to the League. . . .

The League believes that efficient and economical delivery of care can be enhanced by . . . consumer accountability through deductibles and copayments.

## **POINTS TO STRESS**

- At any given time, some 4.5 million Californians have no health insurance; 80 percent of them are working people or their dependents. Under Prop. 72 about one million uninsured employees and family members will start getting health insurance paid for by employers.
- The uninsured often delay or avoid getting the care they need and are more likely to die prematurely than insured patients with similar problems. They are more likely to face financial ruin as the result of health problems or large medical bills. The cost of providing health care to most of the uninsured is absorbed by those who pay private insurance premiums and the taxpayers who pay for publicly-funded programs.
- About 80 percent of the employees who would be covered by Prop. 72 work for large companies with 200 or more employees.
- Businesses with under 50 employees—small businesses—are exempt from Proposition 72.
- Prop 72 will control health care costs paid by employees by limiting premiums and out of pocket costs; it gives employers marketing power to lower premiums.
- Prop 72 provides a state purchasing pool for employers who choose not to purchase health insurance directly.

- Fast food chains are major opponents of Prop. 72; they don't want to provide the health care insurance required of employers of 200 or more. Some of their competitors do provide this level of health insurance.
- The escalation in health insurance premium costs is making it harder for employers and unions to sustain current benefit levels. Prop. 72 moves to correct the problem that employers who provide coverage to their employees and dependents are at a competitive disadvantage compared to those who do not insure their employees.
- The health care coverage law (SB 2) went through the careful scrutiny of the regular legislative process. Witnesses from the California Restaurant Association, the Chamber of Commerce, California Manufacturers and Technology Association, National Federation of Independent Business, California Farm Bureau Federation, and Wal-Mart testified on the bill, as did consumers, labor, seniors, health care providers and others.
- Proposition 72 is tied to a law that creates a commission to find ways to control healthcare costs while maintaining access to and quality of care.
- Some companies are going to pay for the minimum, 80% of premiums. But some companies already provide more than that, and can continue to do so—up to 100%, in which case the employee continues to pay nothing. Even the opponents of the law admit that the law "sets a floor for employer contribution of 80 percent of the cost, not a ceiling."
- California families will save money. The average family in California already pays nearly \$2500 annually in premiums. Opponents of Prop 72 estimate that 72 will cost the average family up to \$1,700 per year. Even by the opposition's own estimates, Prop 72 will save money for the average family right now.

<b>SUPPORTERS</b>	<b>OPPONENTS</b>
<p>Signing ballot arguments for:</p> <p>Richard Holober, Executive Director Consumer Federation of California</p> <p>Deborah Burger, RN, President California Nurses Association</p> <p>Richard F. Corlin, M.D., Past President California Medical Association &amp; American Medical Association</p>	<p>Signing ballot arguments against:</p> <p>Allan Zaremborg, President California Chamber of Commerce</p> <p>Sandra Carsten, President Association of California School Administrators</p> <p>James G. Knight, M.D., 2003 President San Diego Medical Society</p>

The rebuttal to the opponents' argument was signed by Paul Kivela, M.C., President, California Chapter American College of Emergency Physicians; Barbara E. Kerr, President, California Teachers Association; and Tom Porter, California State Director, AARP.

## RESOURCES

Marion Taylor, LWVC Legislation Director, 239 Alamo Avenue, Santa Cruz 95060, 831-427-2350, mtaylor@sbcglobal.net

Trudy Schafer, LWVC Program Director/Advocate, 801 12th Street, Suite 220, Sacramento 95814, 916-442-9210, tschafer@lwvc.org

Save Your Healthcare, 916-442-2308, [www.YesonProp72.com](http://www.YesonProp72.com). Visit the Web site for information and ideas for action; individuals can send an e-card about Prop. 72 to their personal e-mail lists.

## SAMPLE LETTER TO THE EDITOR

Note: Please adapt this letter to your own community and check your local paper' s word limit for published letters.

Editor:

A yes vote on Proposition 72 (Health Care Coverage Requirements) will provide health insurance for about a million of the 4.5 million uninsured Californians.

A majority of Californians under 65 receive health insurance through their employer or the employer of a family member.

A new law (SB 2) passed in 2003 requires employers of 200 or more to provide health insurance to their employees and their dependents. Employers of 50 to 199 employees must provide health insurance for those employees. There are no requirements for employers of 49 or fewer.

Opponents of this law, especially some fast food chains and department stores, placed a referendum on the ballot, and the law will take effect only if Prop. 72 is approved by the voters. Some of their competitors already give their workers health insurance. Prop. 72 levels the playing field for large employers in California, removing the unfair competitive advantage some have because they don' t provide insurance.

Prop 72 will control employees' health care costs by limiting premiums and out-of-pocket costs; it gives employers marketing power to lower premiums.

Vote YES on Prop. 72 which requires those large employers not now providing minimum health care benefits to do so.

Sincerely,

(name of president)

President

League of Women Voters of \_\_\_\_\_