

Program Summary:

Ballot Measures in the November 4, 2014 California Election

Listserv Discussion took place October 14- 25, with 50+ participants

This AAUW CA ONLINE branch program reviewed the measures on the Nov. 4 ballot. AAUW CA's Public Policy committee studied the measures and made recommendations. Comments and answers were provided by our guest speaker, guest speaker, Shannon Smith-Crowley, AAUW CA Legislative Advocate. We hope that the summary of our discussion-- will make this complicated ballot more understandable.

This program summary includes the following topics. Note that names of participants have been removed, except for the guest speaker:

- BACKGROUND-- How measures get on the CA ballot
- Introductory general questions/answers to/from speaker
- AAUW CA position and discussion on all 6 initiatives on the CA November ballot
- Discussion of Judicial elections on the November ballot
- Closing comments

AAUW CA positions on the ballot measures

Prop 1	(water bond) –	support
Prop 2	(rainy day fund) –	neutral
Prop 45	(health insurance rates) –	oppose
Prop 46	(doctor testing and malpractice) –	oppose
Prop 47	(criminal penalties) –	support
Prop 48	(Indian gaming) –	no opinion (not related to AAUW policy issues)

Initial questions from the moderators and **answers from guest speaker, Shannon Smith-Crowley, AAUW CA Legislative Advocate:**

1. Please describe the process you and AAUW CA go through to evaluate the measures and make recommendations. Please list any guidelines you follow.

The AAUW CA Public Policy committee meets in July, as do other state committees. Prior to that meeting each proposition was assigned to a committee member for research, examining pros and cons, and making a recommendation. The AAUW CA Public Policy Priorities 2013-2015 provided the context in which each proposition was reviewed. The committee discussed each during our meeting and arrived at final recommendations, which are posted on the website.

2. Do you communicate with the League of Women Voters or other organizations with similar missions in your discussions?

A member of the PP committee is an active LWV member in the LA area and was present at our meeting. The League has a somewhat different context in which they decide their positions on ballot measures.

3. Do you take into account the financial impact a measure might have on the community? We

were surprised to see that AAUW CA made no recommendation on Proposition 48 (Indian Gaming), which will involve much money and influence the quality of life.

The Indian Gaming measure does not fall within our Public Policy Priorities.

4. What, if any, is the difference between a proposition and a measure?

Not really. You may wish to refer members to the CA website for our previous study on the Initiative Process, and also www.sos.ca.gov which is the Secretary of State website. See this info from the SOS website: [Ballot Measures](#)

There are two ways a measure can be placed on the ballot:

- The Legislature has the ability to place constitutional amendments, bond measures, and proposed changes in law on the ballot.
- Any California voter can put an initiative or a referendum on the ballot by following the "How to Qualify an Initiative process."

A statewide ballot measure can be approved by a majority vote of the people. Certain local ballot measures require approval by a 55% or a two-thirds vote of the electorate.

Referendum

Article II, Section 9, of the California Constitution provides for the referendum process in California. Electors have the power to approve or reject statutes or parts of statutes, with the exception of urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual, current state expenses.

Referenda can qualify for the statewide ballot up to 31 days before an election (unlike initiatives which must qualify 131 days before).

Please note: As a result of Senate Bill 202 (Chapter 558, Statutes of 2011), from July 2011 forward, initiative and referendum measures will only appear on general elections ballots.

5. Are any of this year's propositions likely to end up in a long-drawn-out court battle if passed?

Very good question – I don't know. I'll need to investigate.

Other general questions from participants and Shannon's answers:

[Q 1]: How about checking out League of Women Voters material?

<https://cavotes.org/vote/election/2014/november/4>

Absolutely look at the League of Women Voters (although they only have recommendations on 2 propositions) – it's good to check multiple sources, just being aware [that some] organizations [might have] built-in bias. That's a real challenge as it's not always to know the internal guidelines and politics that went into making the decision.

California Budget Project has good analysis some - <http://www.cbp.org>

Here are a couple of charts from other organizations helping to line up the support/opposition on various initiatives.

https://s3.amazonaws.com/s3.couragecampaign.org/images/CC_2014ProgressiveVGv3.pdf

Editorial	Prop 1:	Prop 2:	Prop 45:	Prop 46:	Prop 47:	Prop 48:
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	water bond	rainy day fund	health rates	malpractice & testing	crim. penalties	gaming referendum
California Democratic Party	Yes	Yes	Yes		Yes	Yes
California Republican Party	Yes	Yes	No	No	No	
California Peace and Freedom Party	No	No	Yes	No	Yes	Yes
Bakersfield Californian			<u>No</u>	<u>No</u>	<u>No</u>	
LA Daily News			<u>No</u>	<u>No</u>		
LA Times	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>
OC Register	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Sacramento Bee		<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>
San Francisco Chronicle		<u>Yes</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
SJ MercNews	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
UT San Diego	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>

There are lots of good materials – just challenging to cull through it all. We tried to do that (see question re our guidelines) but we also did our analysis in July, with more limited information.

[Q 2]: In reading over most of the pros and cons and the endorsing and opposing organizations, I don't see AAUW CA listed by its positions. Did the committee decide not to let the organizers of each proposition know of the state positions?

[Q 3]: One of the links you gave us was from the Courage Campaign, showing various organizations' positions on the propositions:

https://s3.amazonaws.com/s3.couragecampaign.org/images/CC_2014ProgressiveVGV3.pdf

AAUW CA doesn't show up on that list. Is that because we didn't send them our positions, or is it because they only list those organizations that (mostly) agree with them?

We did notify various campaigns - I've seen us on some lists but not all. I think the campaigns tailor lists depending on the specific audience they're trying to reach.

[Note: The following summarizes the discussion on each initiative in the order in which it appears on the state ballot, rather than the order in which it was discussed on the listserv.]

Proposition 1: Water Quality, Supply and Infrastructure Improvement Act of 2014

Under existing law, various measures have been approved by the voters in past elections to provide funds for water supply and protection facilities and flood control, but not all authorized

bonds have been sold. Put on the ballot by the California Legislature, this measure, if passed, would authorize the sale of \$7,120,000,000 in state bonds, and reallocate \$425,000,000 of unissued bonds to finance the purpose of water quality, supply and infrastructure improvements.

Safeguarding California's supply of clean and safe water for homes, businesses and farms is an essential responsibility of government and critical to protecting the quality of life for all Californians. Every Californian should have access to clean, safe, and reliable drinking water. This measure provides funding to implement the three objectives of the California Water Action Plan which are more reliable water supplies, the restoration of important species and habitat, and a more resilient and sustainable managed water infrastructure. It will also enable investment in expanding groundwater storage. It is "tunnel neutral" and provides no funding for the proposed tunnels in the San Joaquin Delta region. This measure provides a comprehensive and fiscally responsible approach to addressing the varied challenges facing California's water resources.

*This initiative is consistent with AAUW's Public Policy Priorities promoting the economic, social, and physical well being of all persons. **AAUW CA supports the passage of this initiative.***

Listserv Discussion on Proposition 1:

[Participant 1]: AAUW CA supports passage of Prop 1, a water bond measure that would finance water safety and storage issues — clearly something our drought-stricken state can no longer ignore as imperative needs.

But in reading the description of the proposition, it says that various measures have already been passed authorizing bond sales for various water projects, yet not all authorized bonds have been sold for those measures. Is that typical? Are bond sales from measures like this one sold over an extended period of time, as the projects are ready for implementation?

It also appears that this is very much a compromise measure, with a much smaller price tag than previous incarnations, and something to appease (and upset) all the interested parties. Although I heard some persuasive arguments from the No on Prop 1 camp at a recent public election forum, I get the sense that their suggested solutions are ideas that simply could never pass the legislature and/or the public vote. So if we want at least SOME movement towards solutions to water supply and quality issues, this is an essential step in the right direction.

And the political reality (sadly) is that if we have strong winter rains and the drought is alleviated (at least temporarily), the public may well go back to ignoring the problem and be unwilling to invest in a bond measure that would address our water needs.

Are there other aspects of Prop 1 that AAUW CA took into consideration in deciding to support it?

[Participant 2]: Shannon, can you talk a little about bonds and CA debt? Some years back, AAUW Public Policy committees did not like to support any bond measures as they just seem to keep adding to the CA debt.

[Participant 3]: Also, the summary said that not all bonds were sold. Was that because there were no buyers? If so, what makes anyone think CA could sell \$7+ billion in bonds, even over an extended period of time.

[Participant 4]: Keep in mind that prop 1 is a compromise -- the earliest version was to have been on the 2010 ballot, then it was bumped to 2012 and finally we have Prop 1 (renumbered from Prop 43) in 2014. And it is supported by both parties.

Shannon: As the public policy committee members reviewed the initiatives, I did not individually analyze the way I would lobby a bill for which I would lobby, so some of your (great) questions – such as why previous bonds weren't sold (I have my theories but need to verify) are things I have to research. [Participant 4] is correct re Prop 1. I think there were 2 no votes in the Assembly – the yin and yang of Tim Donnelly and Wes Chesbro (concerned about adequate protection of the Trinity River in Humboldt). I'll have more feedback for you tomorrow.

[Participant 1]: If you can find anything out about how the bonds are issued/sold, that would be great, Shannon. I asked more out of general curiosity than any implied criticism of Prop 1. As Sue points out, this is a measure that has been in the works for a long time, and finally comes to us after lengthy negotiations and compromises. I see it as an encouraging sign that, even in the current hyper-partisan political atmosphere, we can actually come up with solutions to real problems with give-and-take on both the left and right.

Shannon: Good questions – this is what I found.

First – the AAUW CA initiative study recommended caution when voting for more categorical taxes. Those taxes intended for specific purposes limits the legislature's ability to have discretion in spending. http://www.aauwca.org/Assets/resources/California_Initiative_Study.pdf
I'm not sure where else we would have policy specifically related to bond funding, others might know.

Here's the Legislative Analyst's analysis of Prop 1 - <http://www.lao.ca.gov/ballot/2014/prop-1-110414.pdf>

I've looked at number of sources and I'm not finding anything specifically addressing why the previous bonds weren't sold. What I hypothesize is that they didn't want to sell \$425 million in bonds if they knew they didn't have enough to finish whatever projects they were intending. They shouldn't commit to something if they were unsure they couldn't get all of the needed funding. Also see <http://www.acwa.com/spotlight/2014-water-bond>

The Treasurer's office has to line up the various bond sales
<http://www.treasurer.ca.gov/bonds/calendar.asp>

As you can see, there are a lot of bonds for which there is authorization but for various reasons, they haven't issued.

<http://www.treasurer.ca.gov/bonds/debt/201409/authorized.pdf>

And as the chart shows, California has the ability to sell bonds well in excess of \$7 billion. The school bond in 2006 was more than \$10 billion, see article below.

See the State's authority to sell - <http://www.lao.ca.gov/BallotAnalysis/Bonds>

Since 2002 more than \$90 billion in school bonds have been authorized, with \$53 billion sold. Here's an example of local school districts having bonds authorized, but not they decided not to issue (they are wanting to be assured there are matching state funds before issuing) http://www.bondbuyer.com/issues/123_31/california-schools-have-37-billion-dollars-in-unissued-bonds-1059849-1.html

[Participant 1]: Thanks so much for finding the answers, Shannon—very interesting! And it makes a lot of sense not to sell the bonds (and start accumulating the debt) until the state is sure they have the full funding for the intended projects.

[Participant 4]: Bonds are not taxes. The cost to state (assuming 5% rate, sold over 10 years, 30 year bonds) would be \$360 million per year. Note also that a good deal of that money is available for local projects IF the locals come up with matching funds, typically 50%.

Proposition 2: State Budget. Budget Stabilization Account. Legislative Constitutional Amendment.

Senate Bill 867 (Chapter 186, 2014) was signed by the Governor on August 11, 2014; changing the proposition number of this measure from 44 to 2.

Proposition 58 passed in 2004 required reserves to be set aside in the CA General Fund for economic uncertainties. However, no funds are currently set aside because the governor can declare a budget emergency and waive the “set asides” of 3% of the general fund revenues or a cap of \$8 million or 5%, whichever is greater, into a Budget Stabilization Account (BSA). Then 50% of these annual transfers must be used to pay off Economic Recovery Bonds.

Proposition 2 requires the state to spend minimum amount each year to pay down specified debts. It creates a Public School System Stabilization Account (PSSSA) which is funded by a transfer of capital gains-related tax funds in excess of 8% of the general fund revenues. It creates rules about forecasting estimates of revenues and expenditures for 3 fiscal years with 1.5% annual deposit of general fund revenues and taxes from capital gains in excess of 8%, and changes rules for taking money out of the BSA. Funds would be appropriated when state support for K-14 education exceeds the allocated revenues and resources. School districts will be limited in the amount of reserves that can be kept at the local level.

*While theoretically the PSSSA is a positive step for education, an analysis by EdSource (of which AAUW CA was a founding partner) states the PSSSA would not likely be funded until the end of the decade. With this degree of uncertainty, **AAUW CA remains neutral on this proposition.***

Listserv Discussion of Proposition 2:

[Moderator]: Shannon, can you shed any light on why AAUW chose to sit on the fence on this important issue? Can you shed any light on the importance of EdSource to this decision? Is AAUW still a member of EdSource?

[Participant 4]: League of Women Voters supports Prop 2.

Shannon: As I can recall the extensive discussion at the Public Policy Committee, at the end of the day, I think it was the concern that EdSource (a coalition partner) had a problem with the initiative, and they were in a better position to assess the negative impact on schools than were we.

[Participant 1]: Since AAUW CA is neutral on this one, I went looking for what EdSource and League of Women Voters had to say on Prop 2. Here's what I found...

From EdSource (they have some concerns, but are also neutral on Prop 2):

<http://edsources.org/2014/education-groups-wont-back-rainy-day-fund/68216#.VEaFWb7A0ZY>

From LWV (they support Prop 2):

<http://lwvc.org/recommendation/recommendation-proposition-2-state-budget-budget-stabilization-account>

Reading these two articles will explain the education community's concerns about a few provisions in the measure, but — after reading both articles — I'm inclined to agree with LWV on this one.

Proposition 45: Healthcare Insurance. Rate Changes. Initiative Statute.

If passed by voters, this initiative would require the Insurance Commissioner's approval before a health insurer could change its rates or anything else affecting the charges associated with health insurance. It provides for public notice, disclosure, and hearing, and subsequent judicial review, and exempts employer large group health plans.

If an appointed Insurance Commissioner is given the power to approve "the change of rates or anything else affecting the charges associated with health insurance", concentrating this power in a single individual could have significant, negative ramifications. The commissioner could undermine key components of the Affordable Care Act, making quality affordable healthcare inaccessible for many. Insurers could withdraw their plans from the exchange if their rates are rejected by the state and lead to fewer affordable, quality plans from which consumers could choose. Passage of this initiative could cause a number of unique, unintended consequences creating barriers to coverage, confuse consumers, and possibly increase out-of-pocket costs for low-and moderate-income families enrolled in Covered California.

The ballot measure creates multiple, conflicting review processes and lengthy delays that undermine Covered California's ability to negotiate lower health insurance rates and coverage on behalf of California consumers.

*AAUW's Public Policy Priorities promote "quality affordable and accessible health care" for all. This proposition holds no commitment to meeting this assurance, thus **AAUW CA recommends an oppose** position on Proposition 45.*

Listserv Discussion of Proposition 45:

[Moderator]: There's another proposition that discusses health care. AAUW opposes it. What's your take on it?

[Participant 5]: The Courage Campaign (for progressive voters) support it by 93%. It requires health insurance companies to justify rate increases to the public and receive approval for any increases by the California Insurance Commissioner.

[Participant 1]: I confess I was startled that AAUW opposed this one, and maybe I'm missing something (which is why I find these discussions so valuable, BTW!).

Prop 45 gives the Insurance Commissioner the same power over health insurance rates that the commissioner already has over auto insurance rates — a power which has proven to be very beneficial to consumers, since insurance companies have to really prove to the commissioner's satisfaction that rate increases are truly required to cover the insurance companies' costs.

I also find the flood of TV ads and flyers in my mailbox opposing Prop 45 to be misleading in their focus on how the measure would put all the power in the hands of a single "politician" (meaning the insurance commissioner that we elected), and that we should leave everything in the hands of the "independent" commission (meaning Covered California, which is also an appointed body so not truly independent, and which has no authority that I know of to overrule insurance companies should they jack up health insurance rates).

So is AAUW's opposition because of a timing issue? Is the concern that, should the insurance commissioner NOT approve new rates, there wouldn't be time to come up with a new rate schedule by the open enrollment time at the end of each calendar year?

I know the whole health exchange system is still very new and a work in progress and that we're moving in the right direction with Covered California to better negotiated rates for consumers; but I would like to see more transparency in the setting of health insurance rates, and at least one elected official with the power to veto egregious and unjustified rate increases to protect consumers. It seems to me that Prop 45 would do this.

Shannon: I share your thoughts and was initially inclined to support, or at least be neutral. I personally have worked with this Insurance Commissioner and as a person & Commissioner have nothing but the highest praise for him. I had concerns but torn. But, in listening to the committee, came to agree with their opposition.

As I recall, I think the biggest issue was the timing. This initiative was initiated some time ago before the ACA & Covered CA process but didn't get qualified until this ballot. The Covered CA board is looking to be "active" purchasers, looking not only at cost but quality performance. It doesn't mean much to have cheaper coverage if you don't have an adequate network of physicians & hospitals. Also, the Board will look to clinical indicators so that patients will have good access to high quality care.

Also, under the proposed scenario the Commissioner would have authority over BOTH health insurance and HMOs - which is now regulated by the Department of Managed Health Care, with a whole other set of requirements and regulators. I'm not sure the current market split but it may be 20% of policies are insurance with 80% being HMOs.

Again, concept is laudable but in the opinion of the Public Policy Committee does this meet the high bar needed to pass an initiative.

[Participant 2]: All of my misgivings lie with the nature of the position in question actually not being non-partisan. As [Participant 1] points out we elect the Insurance commissioner, but it is still an elected position that comes with a partisan background and that can sometimes mean influenced by the monetary supporters of large groups to influence the decisions made.

[Participant 6]: Prop 45 benefits the insurance companies, pure and simple. I oppose it and I believe our organization should too. [later]: Sorry, I posted in the wrong place--was thinking of Prop 46.

[Participant 1]: How does it benefit insurance companies, [Participant 6]? Looking through the sheaf of No on Prop 45 flyers that have come in the mail, it looks like the political ads are financed at least in part by health plans (insurers). It's hard to believe that insurance companies would bankroll an effort to kill an initiative that would benefit them.

Shannon's observations made me go back to the CA Voter Information Guide and read the whole background on Prop 45 from the legislative analyst more carefully. It's complicated! And now I better understand the point Shannon is making about how this initiative was crafted prior to the creation of the Covered CA exchange, and so doesn't really "fit" with the new system we have in place.

One thing seems clear: Our organization needs to get back to advocating for a single-payer universal health care system. If it can't be achieved politically nationwide, then we need to at least find a way to achieve it within CA. AAUW CA was very involved in advocating for that in the not-too-distant past. I don't think the need has diminished just because of the improvements in coverage through the Affordable Care Act.

[Participant 4]: Insurance companies have raised nearly \$38 million to oppose this measure. Already, 35 states and the District of Columbia regulate health insurance rates -- Prop 45 would affect ONLY individual policies and small group employer policies. The Insurance Commissioner has the power to regulate all other types of insurance, why not health insurance? Don't you realize that health insurance is about making money for the insurance companies? I'm dismayed that AAUW opposes this measure.

Proposition 46: Drug and Alcohol Testing of Doctors. Medical Negligence. Lawsuits. Initiative Statute.

Proposition 46 would require drug and alcohol testing of doctors and reporting of positive tests to the California Medical Board. It would also require the California Medical Board to suspend a doctor with a positive test and to take disciplinary action if the doctor was impaired while on duty. Health care practitioners would be required to report any doctor suspected of drug or alcohol impairment or medical negligence. It would require health care practitioners to consult state prescription drug history database before prescribing certain controlled substances. Finally, it would increase the cap on pain and suffering damages in medical negligence lawsuits from \$250,000 to over \$1 million, reflecting inflation.

Raising the cap on noneconomic damages would likely increase overall health care spending in California (both governmental and nongovernmental) by: (1) increasing direct medical

malpractice costs and (2) changing the amount and types of health care services provided. The increased awards in medical lawsuits would likely be passed on to the consumer and would therefore increase the costs of health care. It is likely that some physicians would leave California if their malpractice insurance costs rise, thus decreasing access by consumers. Also there are concerns that the state prescription drug history database is inadequate for the scope of record-keeping required by this initiative.

Recommendation: Because AAUW supports access to quality, affordable health, it opposes this initiative and recommends a NO vote.

Listserv Discussion on Prop 46:

[Participant 7]: I thought I was daft but I just saw a commercial confirming my fears. Barbara Boxer is supporting Proposition 46. I'm surprised because I have always been aligned (and blessed) with [Senators] Boxer, Feinstein and [Rep.] Jackie Speier. Can you please shed some light as to why Boxer is supporting 46?

Shannon: It may have something to do with Boxer's husband being a plaintiff's lawyer? At the state level, the Dems are big supporters of tort reform, not sure why it's a bit switched at the Federal level but it is.

[Participant 1]: I was a little surprised by AAUW CA's opposition to this one. I can't imagine they are opposed to the provision to drug/alcohol test doctors, so the opposition is about the provision increasing the cap on pain/suffering awards in medical negligence lawsuits. The write up [the moderators] sent us at the start of this program says that would increase medical malpractice insurance costs, which would ultimately be paid by consumers — a legitimate concern.

But the other reason for opposition — that physicians would move out of state and there would be less access to medical care — seems like a stretch to me. So I'm still very much on the fence.

Shannon: First, there are 3 components of the initiative – each of which could be their own bill or initiative. Each of them has their merits, not surprisingly – but each are flawed and the standard for an initiative should be high given the impact and difficulty with changing it.

For drug testing, this should have been a bill in the Legislative process. It wasn't. There WAS a drug & alcohol diversion program at the Medical Board, which was disbanded because of problems. The CA Medical Assn and others are working to get a private program funded. Also, facilities have their own policies about testing.

Bottom line – the REASON this piece was added, according to Consumer Watchdog, one of the proponents was because drug testing of doctors polled well. Jamie Court called it “the ultimate sweetener” to get voters interested, even if they weren't as interested in raising the noneconomic cap on medical damages (quadrupling it).

Other states have experienced physicians leaving due to high insurance premiums. I don't know if you recall a few years ago, Nevada had a big crisis and Nevadans were having to come to CA for care. Even without CA's cap on noneconomic cap (no cap on economic, as is the case in

some other states) the average premium for an ob/gyn is \$70,000. NY & FL (where there is not tort reform, no caps, and doctor shortage) is \$200,000 - \$300,000. In TX, where an initiative went through a few years ago to have a cap on noneconomic damages, there are substantial data showing doctors flocked to TX.

BUT – we don't even need to “go there” - the measure is SO flawed on privacy grounds that even the ACLU is opposing it.

Not only are there problems with the drug testing provision, but also with the state database that would be required to be used before issuing certain prescriptions. The system has not been terribly functional. It's been so difficult for doctors to register, only 12% are. There should be more focus on having an operational database FIRST.

As you can see, there were many reasons why AAUW CA chose to oppose. Also, look at the opponents list – many teacher organizations and local community health clinics.

<http://www.micra.org/about-capp/supporters.html>

It is raising the costs for all to the benefit of just a few. And again, this is only a limit on noneconomic damages. Whatever is needed to make a person economically whole, is unlimited. Also, there is no limit on punitive damages, when the physician has acted egregiously.

[Participant 4]: I am also surprised at the AAUW CA opposition to Prop 46.

I read in a recent column by George Skelton (Los Angeles Times) that in 1993 Jerry Brown (who was governor in 1975 when MICRA was voted in, freezing pain and suffering damages at \$250,000) wrote to Ralph Nader that he (Brown) was wrong to believe that putting a cap on pain and suffering damages would help hold down medical costs because it had not.

In my opinion, the other parts of the measure, drug testing and checking the prescription database, should have been handled by the legislature.

Michael Hiltzik (Los Angeles Times, Business Section) wrote some time ago that both sides of prop 46 were pushing "infantile" arguments.

Shannon: [Participant 4], I attended a speech of Brown's about 10 years ago. He set the record straight on the cap. He said not only did he not regret but given his (Buddhist/Jesuit?) background, he would have been fine with NO money for pain & suffering. In his own inimitable way said something along the lines of what could you buy to make you feel better? (In much more colorful language than that!)

[Participant 4]: Interesting. I have yet to see evidence that the cap on pain and suffering did anything to keep medical costs in check. It has certainly deterred many from suing for malpractice because it isn't worthwhile to take such cases.

The real problem with high health costs is that health insurance is about making money for the insurance companies. I recommend "The Healing of America" by T.R. Reid in which he describes how a number of industrialized nations deliver health care. But I digress.

[Moderator]: Shannon, your straightforward answer is really very helpful. "BUT – we don't

even need to 'go there' - the measure is SO flawed on privacy grounds that even the ACLU is opposing it." It reminds me of the old saying -- you can put lipstick on a pig, but it's still a pig.

[Participant 8]: I share [Participant 7]'s dismay at Boxer's position. Do you know of [Senator Dianne] Feinstein's and [Representative Jackie] Speier's positions?

[Moderator]: I couldn't find anything on Sen. Feinstein's website on Prop 46 so I sent an email and asked for her position on it. I will forward any reply. Hope it comes tomorrow. I am not in Speier's district -- perhaps someone else can see if she has posted a position on Prop 46?

[Participant 7]: I'm on Jackie [Speier]'s newsletter list. I've checked but she has not come out with her endorsements of propositions. I'm sure she will soon. The San Mateo County/San Francisco IBC [Interbranch Council] will hear her talk next Saturday, Nov. 1st so I'm sure she will talk about the upcoming elections. If I get any information, I will forward to California Online.

[Participant 9]: Did some reading on the propositions yesterday. Found Feinstein opposes it, though the Dem Party supports it [later]: Mistaken. The opposition is to the proposition dealing with felonies [Prop 47].

[Participant 2]: Thank you, Shannon, for giving us all such informative information. I am jumping in late here on Prop 46, but my question relates to the 3 components... since they could actually be stand alone bills or initiatives, how did they pass muster and get lumped into one since we have a single topic rule for initiatives? Was this challenged in the initial phases of the development of the Proposition? Did they just think that since all was "medical" related, they could lump them into one initiative? After our branch study of the initiative process, it is dismaying that this happened and is not even part of the discussion.

Shannon: I can ask if there was any thought as to legal challenge on Prop 46 due to the multiple issue concern. I don't recall hearing of anything. It was a factor in the Public Policy Committee's decision to oppose.

In response to [the Moderator]'s question, I think it makes it harder when one puts more into an initiative - one had to defend every single piece, even if it's not thought out. 2 provisions could be perfect solutions, but if 1 isn't - it's an up or down vote, not like a bill where you could negotiate the 3rd provision to acceptable or have it dropped.

Proposition 47: Criminal Sentences. Misdemeanor Penalties. Initiative Statute.

The initiative would reduce the penalty for most nonviolent crimes from a felony to a misdemeanor. Specifically, the initiative would mandate misdemeanors instead of felonies for "non-serious, non-violent crimes," such as petty theft and drug possession, unless the defendant has prior convictions for violent and serious crimes.

It would permit re-sentencing for anyone currently serving a prison sentence for any of the offenses that the initiative lists as misdemeanors. About 10,000 inmates would be eligible for resentencing, according to the Californians for Safety and Justice group. Safeguards in this initiative include requiring a "thorough review" of criminal history and risk assessment of any

individuals before resentencing to ensure that they do not pose a risk to the public.

This proposition would create a Safe Neighborhoods and Schools Fund. The fund would receive appropriations based on savings accrued by the state during the fiscal year, as compared to the previous fiscal year, due to the initiative's implementation. Estimates range from \$150 million to \$250 million per year. Funds from the Safe Neighborhoods and Schools Fund would be distributed as follows: 25% to the Department of Education, 10% to the Victim Compensation and Government Claims Board, and 65% to the Board of State and Community Correction. These funds will be applied to the above for k-12 schools for truancy etc.; mental health and drug treatment programs; and crime victims programs.

Basic to all AAUW's public policy efforts is the understanding that true equity requires a balance between the right of the individual and the needs of the community. AAUW CA recommends a support position on this initiative.

Listserv discussion on Proposition 47:

[Participant 1]: That last paragraph about the Safe Neighborhoods and Schools Fund explains to me why AAUW CA supports this initiative. As AAUW members we know full well how important education is to solving so many societal problems, and this measure puts funding where it will make a difference.

This proposition also makes sense to me simply because we have gone completely overboard in classifying crimes as felonies and cramming our prisons — cramming to the point where our state has been ordered to reduce the prison population to alleviate serious overcrowding.

Shannon, in looking over the newspaper editorials on the propositions, it looks like 4 of the papers you listed were in favor of this one and 3 against. What is the main point of opposition to this one? Do they think it's "soft on crime"?

[Participant 9]: I looked this one up on www.ballotpedia.org. they have lengthy info on support and opposition. AAUW is not listed among the supporters. They have a lengthy quote from and link to Dianne Feinstein's opposition to this issue. Opposed by many in law enforcement. [Added later]: I was working earlier with my Kindle. Here's the actual link to the info on Prop. 47:

http://ballotpedia.org/California_Proposition_47_Reduced_Penalties_for_Some_Crimes_Initiative_%282014%29.

Here's the link to the opinion piece authored by Dianne Feinstein explaining her opposition: <http://www.dailynews.com/opinion/20141015/prop-47-will-make-californians-less-safe-dianne-feinstein>

[Participant 4]: My neighbor, a public defender in Orange County, is very much in favor of the measure, along with the rest of his department. Also supported by ACLU, NAACP (San Diego & San Jose), some victims groups, CTA, League of Women Voters -- you can see the list in Ballotpedia.

Shannon: See this piece from the Huffington Post, submitted by the CEO OF THE women's Foundation: **Prop 47 Supports Women and Families, Surina Khan** 10/03/14 05:38 PM ET

Co-authored by Quinn Delaney, founder and President of [Akonadi Foundation](#), which supports racial justice movement building in Oakland.

If we can improve the lives of thousands of California's women and children, shouldn't we do it? If we can strengthen communities throughout the state, shouldn't we do it? And what if, in the process, we can also take a giant step toward fixing our criminal justice system, shouldn't we do it?

[Proposition 47](#), a common sense initiative on the November ballot, gives us a critical opportunity to do all that -- and save the state money.

Increasingly, voters, policy makers and criminal justice experts are speaking out against sky-high incarceration rates and overcrowded prisons and jails. But the devastating impact of our wrongheaded approach to public safety on women often is ignored. Women and girls disproportionately bear the brunt of our broken criminal justice system, a hidden bias that profoundly impacts families and entire communities.

The numbers are clear: Women are incarcerated for nonviolent crimes at disproportionate rates compared to men. For example, in California [women are three times more likely](#) to be in prison for forgery or fraud and twice as likely to be incarcerated for petty theft.

Incarcerating women, and men, for low-level offenses and saddling them with the label of "felon" for life has long-lasting consequences. Those with felony convictions face huge barriers to the opportunities they need to get their lives back on track, and that's especially true for women. Formerly incarcerated women are less likely to obtain public benefits and find stable housing as they try to rebuild their lives. Despite the low risk women with criminal records pose to public safety, women also have more difficulty than men finding employment after release from jail or prison.

The damage extends beyond their own lives to that of their children and families. When a person is sent to prison, that sentence has devastating effects on his or her family and community. The children no longer have their mother or father there to fix their meals, get them ready for school or contribute to the family income. Today, this situation affects tens of thousands of children in California, who are growing up without their mother or father. A vast majority of women behind bars -- [nearly 62 percent](#) -- are mothers of minor children.

With Proposition 47, California voters can make a dramatic difference in the lives of women and children in the state. We can pass a law that will not break up families and communities needlessly, while still holding people accountable for their actions and keeping us safe.

Here's how Proposition 47 works. If passed, it would change six non-violent, low-level offenses - - such as simple drug possession, petty theft and shoplifting, and writing a bad check -- to misdemeanors, not felonies. It right-sizes the punishment for low-level, non-violent, non-serious crimes, and people convicted of them will serve their time in county jails, not in state prison. By making simple changes to the way non-violent and non-serious offenses are treated in our criminal justice system, we can eliminate many of the hurdles faced by people trying to pull their lives back together. We can remove the stigma of a felony conviction as these women and men try to overcome drug addiction, mental illness, poverty and other challenges. We can allow mothers and fathers to come home to their families, find a job and get back to the business of

raising a family and being a part of a community.

Importantly, this initiative will have a large impact on women. Women are more likely to have been convicted of a crime involving drugs or property, just the offenses covered by this initiative. The effect of the new policy would allow a mother to stay in a county jail closer to home, resulting in less separation from her kids. Families will be reunited sooner, thus avoiding the consequences felt by children of incarcerated parents such as mental and emotional problems, school underperformance, or placement into foster care.

The measure also saves the state money, as high as \$1.25 billion in the first five years. Those savings would be allocated to K-12 afterschool programs, mental health and substance abuse treatment programs, victim services, as well as programs that reduce violence against women. Proposition 47 presents California voters with a common sense approach to holding people responsible for their actions while upholding public safety. It does what good policy should do: strengthen and support communities. If we can stand up for women, families and our state, shouldn't we do it? In November, let's do just that by passing Proposition 47.

[Participant 2]: Thanks, Shannon. It was not a perspective I had even considered.

Proposition 48: Indian Gaming Compacts. Referendum.

AAUW CA did not study this initiative, as it is not related to the AAUW CA Public Policy Priorities.

[Moderator]: Would anyone like to comment on this final proposition? AAUW has not taken a position, but some of us might have strong feelings, pro or con.

[Participant 1]: Here's what ballotpedia has to say about Prop 48:
[http://ballotpedia.org/California_Proposition_48,_Referendum_on_Indian_Gaming_Compacts_\(2014\)](http://ballotpedia.org/California_Proposition_48,_Referendum_on_Indian_Gaming_Compacts_(2014))

Prop 48 is a vote to affirm or veto the legislature's approval of a compact with some Indian tribes on establishing new casinos. Its supporters (including Gov. Jerry Brown) say it will create jobs, promote tribal self-sufficiency, and increase state revenues.

The opponents say it breaks with the promise to have casinos only built on reservation land (this contract would allow them to build casinos in urban areas near freeways that are far from their land), which negatively impacts the urban areas targeted.

The ballotpedia article gives a list of media editorial positions for/against, including brief summaries of their reasons for supporting/opposing. (I noticed that of the list of newspaper editorials Shannon gave us at the beginning of this program, only one supported Prop 48, and 5 opposed it.)

This is a tough one for me. On the one hand, casino income has made huge differences in the economic well being of many Indian tribes, after generations of abject poverty (poverty directly tied to having been shunted into remote reservations in the first place). But this compact places

the casinos nowhere near the tribal lands, so you can't realistically expect these new casinos to mean new jobs for the members of these tribes. Whatever income they receive from these casinos will be after the operators take their cut. And more casinos mean more gambling losses by residents, many of them low-income people who can least afford to gamble, but who can't resist the siren call of "easy money."

I'm very interested in hearing what others think about this one.

[Participant 9]: I oppose this. It's focused on ONE casino by ONE tribe - to be able to build a casino next to Highway 99 in the area south of Merced. Proponents feel that hordes of people will drive out there from the Bay Area to gamble and that it will be a boon to business and employment in this severely depressed part of our state. Another argument is that it would thrive because people need a good stopping place on their journey to LA. Having lived south of Fresno for nearly 10 years, there are already a number of tribal casinos within 1-2 hours of Fresno - the largest being Chukchansi (tribal members are arguing about control and last time I checked it was closed), Mono Winds, southeast of Chukchansi, one near Hanford, and another east of Porterville. There may be others... The tribes send buses to the small, poor, rural communities to bring in the gamblers. I think there is a limit to how much the populace can support. Yes, the area needs something to boost the economy. This is NOT the answer. My two cents.

[Participant 10]: I agree with your concerns and intend to vote no on this proposition.

[Participant 11]: Agreed...from what I have read, this tribe does not have a reservation, but bought this land years ago. I've also followed NPR about how many tribes start excluding previous members, thus increasing profits to some, and disenfranchising former members,

[Moderator]: I wish the tribes could figure out some other way to make money. The casinos offer the promise of riches and lure those who can least afford to lose any cash. I know one attraction is selling cigarettes without taxes, which I see as a public health danger. I can't speak for the casino location in the initiative but the one in Rohnert Park (Graton Rancheria) has not fulfilled its promise. Neighbors have reported that people go to gamble in their pajamas! (I have not seen this myself.) Landscaping consists of plastic plants. Overall, its presence has not made the community want more.

[Participant 11], I am sure you are right, some get rich and others don't get a cent and maybe lose what they have. I am not sure what "disenfranchising members" means but it sounds bad to me.

Surely there is a better way.

JUDICIAL ELECTIONS ON THE BALLOT

[Moderator]: We've had good info on the propositions, but what about our JUDICIAL choices? Shannon, can you recommend any source material? The LWV doesn't seem to have anything. Hoping for enlightenment!

Shannon: I've always thought voting on judicial positions a bit goofy. A judge can be technically accurate and rule against social opinion, creating a situation of unpopularity. If the public vote is based on popularity vs a true assessment of the judge's technical credentials, seems

like defeating the purpose of having a judge in place. I have not found a good source for assessing but will investigate.

[Participant 4]: My husband does appellate work, he says vote to confirm all. Tea Party does not like Liu or Fydel. TP dislikes Liu because he had reputation for being liberal but has not been liberal on CA State Supreme Court. Dick thinks very highly of Liu, whom he describes as perhaps the smartest justice on the court.

Shannon: I do agree with the default of retaining unless specific info of unfitness.

[Participant 4]: Voting for judges can create problems but that's the unfortunate system here in CA. A politically unpopular decision has been used against the judges.

[Participant 2]: Especially the recall of state supreme court justices.

[Participant 9]: I can refer you to a couple of sources with biographical info on the justices. Since there are several different jurisdictions in California, we vote on the ones serving the area where we live, with all of us voting on the California Supreme Court. First is: <http://www.courts.ca.gov/home.htm>. Click on "Courts" at the top, then the type of court in left column and keep drilling down to find the list of justices for each court. Pretty detailed bios.

The young folks that brought us ballotpedia also produce the Judgepedia site at <http://judgepedia.org/California>. Here you'll find the various levels of courts right below the video explaining the court system in California. It's a bit easier to use than the first site. Somewhat shorter bios, but a handy list showing dates of expiration of terms.

[Moderator]: Thanks for these two gems, [Participant 9]! And for everyone else's comments. Who else? What else?

[Participant 12]: I have a very respected lawyer friend who says that incumbent judges are highly vetted before they are appointed and unless they are guilty of "high crimes and misdemeanors you should give them your vote. Makes sense to me.

[Participant 13]: Thanks for that good info re judicial voting. I usually look to the bar recommendations which generally assess competency.

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GENERAL DISCUSSION

[Participant 1]: As AAUW members who support the organization's mission, we're likely to agree with AAUW CA's positions, especially once the rationale is fully explored and explained. But what happens when we disagree with an announced AAUW position? (In this election, but also generally in the realm of public policy discussions).

According to AAUW bylaws (and the bylaws of every single AAUW branch), there is a "Use of Name" article that spells this out. Specifically, there is Section 1: **The policies and program of AAUW shall be binding on all members and no member shall use the name of AAUW to oppose such policies or program. Established channels may be used to change a policy or**

program. ...and there is Section 3: **The freedom of speech of the individual member to speak a personal opinion in the member's own name is not abridged.** This means that I can express an opposing view from AAUW's, but not do so identifying myself as an AAUW member. Why? Because our organization's advocacy work is strongest when we speak with one voice.

[Participant 2]: I rely on solid, credible analyses by organizations I respect, but when I go in to the ballot box, it's my decision!

[Participant 14]: I agree!

[Participant 15]: I also agree. I appreciate having these discussions. Thank you, all.

[Participant 8]: I also agree, but Shannon's explanations are very helpful.

[Participant 6]: Thanks, [Moderator]. This has been an excellent program. Shannon's answers were very helpful and contributions by members were interesting and valuable.

Summary prepared by Sandy Kirkpatrick

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