

THOMAS W. HILTACHK

455 Capitol Mall, Suite 801  
Sacramento, California 95814  
(916) 442-7757

November 12, 2009

09 - 0082

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

RECEIVED

NOV 12 2009

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative V-5

Dear Ms. Paris:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure to your office and request that you prepare a title and summary of the measure as provided by law. I have also included with this letter the required signed statement pursuant to California Elections Code section 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Should you have any questions or require additional information, please contact me at 455 Capitol Mall, Suite 801, Sacramento, CA 95814 or (916) 442-7757. Thank you.

Very truly yours,

Thomas W. Hiltachk

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

## SECTION 1. STATEMENT OF FINDINGS

- A. Federal law requires hospitals to care for every man, woman, and child who enters an emergency room regardless of that person's ability to pay or whether that person has health insurance.
- B. Providing emergency care to these patients costs California hospitals billions of dollars each year. As a result, health care costs for all Californians are increasing and many community hospitals and emergency rooms have been forced to close.
- C. The federal government has a program to help states pay for hospital services provided to low-income patients, including children. However, to receive federal matching funds, a state has to contribute its own money.
- D. For a number of years, our State Legislature has not committed the money necessary to match available federal funds. Consequently, California's share of federal health care funds is not being paid to our community hospitals for the services they provide.
- E. Several other states have imposed taxes on hospitals in order to obtain additional federal health care funds. However, in some of those states, their Legislatures have diverted the funds for other purposes.

## SECTION 2. STATEMENT OF PURPOSE

Therefore, the people hereby amend the Constitution to:

- A. Prohibit the Legislature from imposing a tax, fee, or assessment on community hospitals for the purpose of obtaining federal health care funds unless the money is used to reimburse community hospitals providing hospital services to low-income patients;
- B. Require that all proceeds of the tax, fee, or assessment and the federal money obtained be placed in a Trust Fund, subject to state audit; and
- C. Require that any amendment to these restrictions must be approved by a vote of the people.

## SECTION 3. MEDI-CAL HOSPITAL RATE STABILIZATION TRUST FUND

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

Sec. 3.5(a) The Legislature shall not impose, nor shall the state collect, a tax, fee, or other assessment on community hospitals for the purpose of obtaining federal financial participation in the Medicaid program unless:

- (1) The proceeds of the tax, fee, or assessment used for increased Medi-Cal reimbursements to community hospitals are matched by the federal government with at least fifty-five (55) dollars for every forty-five (45) dollars generated by the tax, fee, or assessment;
- (2) The proceeds of the tax, fee, or assessment, including the amount provided by the federal government and all interest earned on such proceeds, are deposited into a Trust Fund created in the State Treasury and subject to annual state audit;
- (3) The proceeds of the tax, fee, or assessment are used to reimburse the state for the actual cost of collection and administration of the program; make payments to public community hospitals; and from such proceeds, up to fifteen percent (15%), but no less than ten percent (10%), to provide health care coverage for the children of low-income families. The remainder of the proceeds of the tax, fee, or assessment, and the amount provided by the federal government and all interest earned on such proceeds, are used to increase reimbursements to community hospitals, whether paid directly or through third party payers, for hospital services provided to Medi-Cal patients;
- (4) The rate of tax, fee, or assessment does not exceed the maximum rate for which federal financial participation is available under Medicaid;
- (5) The state obtains all necessary approvals for the tax, fee, or assessment and related increase in Medi-Cal reimbursements from the federal Centers for Medicare and Medicaid Services;
- (6) Medicaid payments for hospital services covered under the Medicaid program do not exceed the amount for which federal financial participation is available under Medicaid;
- (7) The proceeds of the tax, fee, or assessment, including the amount provided by the federal government and all interest earned on such proceeds, are not used to supplant existing funding for hospital services provided to Medi-Cal patients; and
- (8) The proceeds of the tax, fee, or assessment are not used to supplant existing funding for health care coverage for the children of low-income families.

(b) For purposes of this section:

- (1) "Community hospitals" means general acute care hospitals licensed by the state. Hospitals operated and funded by the federal government are not "community hospitals."
- (2) "Existing funding for hospital services" means the amount expended from appropriations by the Legislature for hospital services provided to Medi-Cal patients, whether paid directly or through a third party, in the fiscal year in which the tax, fee, or assessment is enacted, or in the preceding fiscal year, whichever is greater. Any amount appropriated from the Hospital Quality Assurance Revenue Fund created

pursuant to Welfare and Institutions Code section 14167.35, as of January 1, 2010 shall not be considered "existing funding for hospital services."

- (3) "Public community hospitals" means hospitals that are licensed to a county, city and county, or the University of California.
- (4) The proceeds of the tax, fee, or assessment shall not be considered General Fund revenues, General Fund proceeds of taxes, or allocated local proceeds of taxes, for purposes of Section 8 of this Article.

#### SECTION 4. GENERAL PROVISIONS

- A. This measure may only be amended by a vote of the people pursuant to Article XVIII of the California Constitution.
- B. If any provision of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.