



BEND THE ARC'S NOV. 2014

Voter Guide

CALIFORNIA PROPOSITIONS

Thank you for downloading Bend the Arc's November 2014 Voter Guide. In the following pages you'll find in-depth analysis of the many critical issues in front of California voters this fall. For your convenience, below is a summary of our positions on the six statewide propositions.

Summary of Bend the Arc's Positions

Proposition 1 NO POSITION

Water Quality, Supply, and Infrastructure Improvement Act of 2014.

Proposition 2 ✗ OPPOSE

State Budget. Budget Stabilization Account. Legislative Constitutional Amendment.

Proposition 45 ✓ SUPPORT

Healthcare Insurance. Rate Changes. Initiative Statute.

Proposition 46 ✗ OPPOSE

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

Proposition 47 ✓ SUPPORT

Criminal Sentences. Misdemeanor Penalties. Initiative Statute.

Proposition 48 NEUTRAL

Indian Gaming Compacts. Referendum.

Introduction

Bend the Arc: A Jewish Partnership for Justice is proud to provide a guide to the propositions appearing on California's November 4 ballot. The guide was written by volunteer leaders working through our California regional offices. Bend the Arc envisions a strong progressive movement in which Jews continue to play a critical role in helping America fulfill its promise, pursuing justice with our partners as a core expression of Jewish values. Although our Jewish identities are diverse, we are bound together as a people by a shared concern for human dignity and equality. Inspired by our traditions and history, we have assessed the six propositions appearing on California's November ballot, studying their meaning, likely impact, and relationship to Jewish values.

In general, we remain wary of the pervasive use of ballot initiatives, which often espouse simplistic answers to complex issues. Yet, as Californians, we cannot help but witness the toll exacted on our state by underfunded schools and infrastructure. We cannot avoid the harsh reality of our fraying safety net, of crowded unemployment offices and overflowing prisons and shelters. We continue to urge common-sense measures that allow our democratically elected officials to deliberate responsibly and react appropriately to the state's formidable challenges. Meanwhile, it is our privilege and duty to engage as voters. An engaged, informed, and representative electorate is crucial to our collective future.

We believe that our Jewish values, traditions, texts, history, faith, and culture have a role to play in inspiring and informing us to help create solutions to America's most pressing problems. Our shared history teaches us that building a healthy and ethical society is both a personal duty and a communal obligation. As a people, our great successes, as well as our great persecution, remind us of this time-tested truth. From the ancient prophets we hear the call to "seek the well-being of the city in which you dwell... for in its peace you shall find peace" (Jeremiah 29:7), and we take special pride in the American Jewish legacy of taking action to fight injustice and inequity. "Jews believe you can't have justice for yourself unless other people have justice as well," said the late Bella Abzug, one of the first Jewish women elected to Congress.

The November 4 ballot provides opportunities for voters to enact corrective measures, particularly in the area of criminal justice reform. Proposition 47 will begin to undo the policies that have led to disproportionate rates of incarceration in communities of color, creating terrible consequences in people's lives and diverting unprecedented levels of spending toward incarceration.

We invite you to use this guide to engage others in conversation about public policy and politics. Join us and our partners on November 4 in voting to build a California that better reflects our values.

Proposition 1

The Water Quality, Supply, and Infrastructure Improvement Act of 2014.

Bend the Arc takes No Position on Proposition 1. Proposition 1 is a bond measure that would allow the state to allocate \$7.5 billion in general bond money for use in various water supply and improvement projects across the state. It is a pared-down version of a bill originally proposed during Governor Arnold Schwarzenegger's tenure. At \$11 billion, many legislators felt the prior bill was packed with pork barrel spending. The new bill was proposed by Governor Jerry Brown and boasts bipartisan support in the legislature.

The funds would be used to support projects in four main categories: increasing water supplies, protecting and restoring watersheds, improving water quality, and increasing flood protection. The proposition would fund a wide array of projects, including new dams and groundwater restoration, desalination

No Position

and recycling technology, fish and wildlife habitat protection, and drinking water pollution reduction. About one-third of the total funds (\$2.7 billion) would be allocated to dam projects, while a small portion (about \$260 million) would be devoted to providing access to clean drinking water in disadvantaged communities.

The bonds would be paid for through the state's General Fund. Over a period of 40 years, the cost to the General Fund would be roughly \$360 million per year, with estimated savings to local governments totaling in the range of a couple hundred million dollars annually.

Within Bend the Arc there was a diversity of opinions about Proposition 1, leading to our "No Position" stance.

Arguments that people found persuasive in favor of the measure were its funding for some much-needed new water infrastructure, restoration of existing infrastructure, funding for wildlife habitat conservation, and the funding for rural, disadvantaged California communities.

Despite these potential benefits, arguments against the bill are also compelling. A large portion of the funds would likely go

to large dams that several prominent environmental groups oppose, seeing the dams as overpriced and inefficient. The bill is also criticized as inadequate in responding to the drought. Also, the initiative would add considerably to California's debt, arguably diverting money from other critical priorities, such as education, public health, and safety. **Given the complexity of this issue and the arguments on both sides, Bend the Arc takes NO POSITION on Proposition 1.**

Proposition 2

State Budget. Budget Stabilization Account. Legislative Constitutional Amendment.

Proposition 2 is a constitutional amendment that would require the legislature to designate a portion of General Fund revenue for a "rainy day fund." This amount would be 1.5% of General Fund revenue per year, and more in years when capital gains taxes exceed 8% of the General Fund. Proponents argue that a rainy day fund would buffer Californians from steep cuts in times of recession, and this is a worthy goal. **While Bend the Arc would support a well-designed rainy-day fund, we believe this measure is flawed, and therefore oppose it.**

The highly-regarded Center on Budget and Policy Priorities has defined eight criteria for establishing rainy day funds in a way that protects opportunity and equity for low-income families. The Center finds that Proposition 2 meets only three of these eight criteria.

California has not fully emerged from the last recession and too many Californians are not able to make ends meet. More than 5.6 million Californians lived in poverty in 2013, including one in five children. Unemployment is still high and levels of funding for key services such as education, job training, and childcare have not recovered to pre-recession levels. This proposition would divert over \$6 billion over three years to the rainy-day fund. Thus, in the name of reducing cuts in future recessions, this proposition would limit the state's ability to address the impacts of cuts from the most recent recession.

OPPOSE

The values of our tradition are stated well in Proverbs 31:9, "speak up...champion the poor and the needy." The Jewish values of healing the world (*tikkun olam*) and just giving (*tzedakah*) demand that we turn toward those in need and address systemic inequities. Investing in education will ensure that our children grow up in a more equal and prosperous world, and has long been a core Jewish value. Kiddushin 30a that, "one who teaches a child Torah is considered to have taught that child and that child's children and grandchildren, to the end of the generations."

The concept of *tzedakah* should be reflected in our politics and our laws. Jewish intellectual and leader Leonard Fein described the ideals of Jewish politics as "a politics that speaks to the needs of those who have been left out or left behind, a politics of inclusion." With one in five California children living in poverty, we must do more, not less, to restore opportunity and create a politics of inclusion. That begins with how we approach the process of creating a fair and just state budget. **For these reasons Bend the Arc urges all Californians to vote No on Proposition 2.**

Proposition 45

Health Care Insurance. Rate Changes. Initiative Statute.

Bend the Arc endorses Proposition 45 as a way of supporting health insurance access for Californians. Proposition 45 would require approval from the California State Insurance Commissioner before a health insurance company can change its health insurance rates for small-employer and individual health insurance policies; the proposition would exempt large group employer health plans. Proposition 45 would also require public notice, disclosure, hearing, and subsequent judicial review prior to approval of a health insurance rate increase. Though some argue that Proposition 45 adds unnecessary regulation, Bend the Arc believes that these new rules add needed and reasonable accountability and transparency.

Proposition 45 protects the six million small business and individual health insurance policy holders in California that would be directly impacted by unreasonable increases in health insurance premiums. Beginning in January, 2014 the Affordable Care Act (ACA) requires all individuals to enroll in health insurance or pay a penalty. It is thus more critical than ever that all individuals, especially those new to the health insurance marketplace, have access to health insurance, and access requires affordability.

Since 2002, health insurance premiums in California have increased 185%, or five times the rate of inflation, according to the California HealthCare Foundation. A 2011 requirement that small-employer and individual policy increases be publicly reported, and requiring regulators to make findings as to reasonability, has proven insufficient to protect consumers. Since 2011, there have been at least fourteen instances in which regulators found the increase unreasonable and the insurance company raised its rates anyway, negatively impacting 923,000 Californians.

SUPPORT

The importance of healthcare and healing the sick is a core Jewish value. Fundamental to our tradition are the principles of caring for the sick (*bikur cholim*), saving lives (*pikuach nefesh*), and deeds of loving kindness (*gemilut chasidim*). The great medieval sage Maimonides listed healthcare first on his list of the ten most important communal services that a city had to offer to its residents (*Mishneh Torah, Hilchot De'ot IV: 23*). He also emphasized the importance of preventive medicine (*Mishneh Torah, Deot 4:1*): “[We have a positive obligation] to avoid anything that is injurious to the body, and to conduct oneself in ways that promote health.” The stabilization and oversight of healthcare costs in Proposition 45 could help families plan for their medical future rather than be burdened by erratic price hikes and inconsistencies in the health marketplace.

Jewish tradition also addresses the cost of health care. The *Shulchan Aruch, Yoreh Deah 249:16*, requires doctors to reduce their rates for poor patients, and when that is not sufficient, requires that communal subsidies be established. Jewish tradition puts providing funds and assistance to those who seek healthcare above the study of Torah or the construction of a synagogue (*Shulchan Aruch, Yoreh De'ah 239:16*).

Thirty-five other states require health insurance companies to get approval from the state insurance regulator before putting rate increases into effect. **Passing Proposition 45 would bring California in step with these other states and improve access to affordable healthcare. Bend the Arc urges all Californians to vote YES on Proposition 45.**

Proposition 46

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

Proposition 46 addresses several loosely connected issues. The main components include: (1) mandating random drug testing for doctors, (2) increasing the existing cap on medical malpractice pain and suffering damages from \$250,000 to \$1.1 million, and (3) requiring doctors to consult a state prescription drug history database before prescribing certain medicines. **Given the disconnected nature of the components of Proposition 46, as well as concerns about individual sections, Bend the Arc opposes it.**

OPPOSE

In addition to mandating random drug testing for doctors, Proposition 46 would also require that doctors report suspected drug abuse by fellow physicians. Requiring random drug testing of doctors raises concerns about privacy and the right to be free from unreasonable searches and seizures (protected by both the 4th Amendment to Federal Constitution, and Article 1, Section 13 of the California Constitution).

Raising the cap on amounts of money that can be awarded for medical malpractice pain and suffering is intended to adjust for inflation a cap first imposed in 1975 and not increased since. The 2014 equivalent of \$250,000 is \$1.1 million. This adjustment in the cap would allow people who suffer due to negligent acts by doctors to be more fairly compensated. But it might also encourage more malpractice claims, and could lead to increases in health care costs.

The final component, requiring health practitioners to consult a state prescription drug history database before prescribing certain medicines, appears to be good policy. Such a database would help prevent “doctor shopping” that allows some people to exceed recommended dosages or periods of use for prescribed medicines. Preventing prescription drug abuse would potentially save lives.

The multi-faceted nature of this proposition is a fatal flaw. For good reason the California Constitution requires that propositions address only a single subject, and this proposition in our view does not meet the single subject test. The rule is designed to prevent voter confusion and prohibit a popular provision from being added to an unpopular measure that would likely fail on its own. Combining topics in a single proposition confuses and alienates voters and distorts the proposition process.

For these reasons, Bend the Arc urges all Californians to vote NO on Proposition 46.

Proposition 47

Criminal Sentences. Misdemeanor Penalties. Initiative Statute.

Bend the Arc strongly endorses Proposition 47. Many people who become incarcerated start out as youth or young adults prosecuted for nonviolent, petty offenses. Many of these nonviolent petty crimes are known as “wobblers,” defined as such because individual prosecutors have the discretion to prosecute them as either felonies or misdemeanors. That distinction has a tremendous impact on the life of the person being prosecuted.

Proposition 47 reclassifies six petty crimes that are currently prosecuted as felonies or wobblers as misdemeanors. These six include theft, shoplifting or receipt of stolen property under \$950, writing a bad check for under \$950, and simple drug possession. The reclassification of these petty crimes would not result in release or expunging records in cases where there is a previous conviction for a violent crime, such as murder, rape, child molestation and some gun-related crimes.

Through this reclassification, Proposition 47 would address a major failing of our criminal justice system: the lack of proportionality between petty crimes and felony-level punishment. The current system has resulted in tremendous increases in incarceration rates overall and disparities in the treatment of people of color, with devastating effects on whole families and communities. The scale of the problem is such that many progressives, influenced by the research and teaching of Michelle Alexander, are recognizing mass incarceration as “the new Jim Crow,” i.e. a new form of disenfranchisement, especially affecting people of color. These practices run counter to our most core moral values. Additionally, these practices are costly.

SUPPORT

Public resources that are needed for health, infrastructure, education, and other aspects of the common good are instead being drained by an ever-expensive and expanding prison system.

If Proposition 47 passes, thousands of Californians would be eligible to remove the mark of a felony on their records – a mark which creates significant and life-long impacts on employability and opportunity. The proposition would apply retroactively, enabling Californians who have a felony conviction for one of these petty crimes to write to the presiding judge and request their felony conviction be changed to a misdemeanor. Currently incarcerated individuals would also have an opportunity to petition the courts to receive an intensive review of their case, including a public safety evaluation, toward the possibility of resentencing or release. The number of people who could benefit from retroactive resentencing of non-violent petty offenses is between 500,000 and 1,000,000. Upon passage, an estimated 40,000 to 60,000 individuals would get jail time or alternative sentencing (such as treatment and/or community supervision) rather than prison incarceration for the non-violent crimes covered by Proposition 47.

Proposition 47 would also generate savings that would be directed toward positive ends. It would invest an estimated \$250 million in savings per year in services for victims, offenders, and the larger community. These funds would be allocated to mental health and drug treatment programs (65%), K-12 school programs (25%) and trauma recovery services for victims (10%). Reinvesting these funds is a constructive shift

in resource allocation, given a context where key needs are unmet. For example, in California incarceration is funded at higher levels than higher education and only 17% of California counties fund substance abuse treatment.

As Jews, the concept of repentance (*t'shuva*) is a central ethical precept. T'shuva, the theme of Rosh Hashanah and Yom Kippur, literally means "returning" to the moral and ethical path. All are meant to have the opportunity to perform t'shuva, but the current criminal justice system impedes this possibility. Our system must deter future wrongdoing and allow an individual the possibility for self-change and for making amends,

whether to the victim (provided through Proposition 47 in the form of funding for victim services), or to society (where offenders would have greater opportunities to make positive contributions to their communities).

By voting yes, and raising our voices for Proposition 47 and the broader movement for criminal justice reform, we take significant steps toward fairness, equity, constructive use of public resources, and the values underlying t'shuva. **For these reasons, we urge all Californians to vote YES on Proposition 47.**

Proposition 48

Indian Gaming Compacts. Referendum.

Proposition 48 asks voters to uphold and ratify previously negotiated gaming compacts (i.e. contracts) between the State of California and two American Indian tribes. A yes vote upholds the compacts; a no vote invalidates the compacts. **Bend the Arc takes a neutral position on Proposition 48.**

Proposition 48 follows the passage of AB 277, legislation that paved the way for two new tribal gaming compacts, and permitted the construction of a casino in Madera County. The compacts were approved through a process which is the result of Proposition 1A (2000). American Indian casinos are given

NEUTRAL

permits through a three-step process: (1) The Governor and tribe reach an agreement on a contract, (2) the legislature approves Governor-negotiated compacts for each tribe, and (3) the federal government approves the compact, pursuant to the Indian Gaming Regulatory Act of 1988.

Bend the Arc has refrained from taking a position on measures that are unsuited to the initiative process, and we believe this to be such a case. **For this reason, Bend the Arc takes a Neutral position on Proposition 48**

Acknowledgements

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Learn more about Bend the Arc at www.bendthearc.us and find out how you can get involved with our work in Southern California or the Bay Area.