

Understanding Arizona's Propositions

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Proposition 304: Legislative Pay Increases

Description

Proposition 304 increases the salaries of Arizona state legislators to \$35,000 a year, up from \$24,000 a year. It was put on the ballot by a 3-to-2 vote of the five-member Commission on Salaries for Elective State Officers (CSECO).

Background

CSECO, created by a constitutional amendment overwhelmingly approved by the voters in 1970, conducts a biannual review of salaries. The Governor chooses two of the five members, including the chairperson. The Speaker of the House, President of the Senate, and Chief Justice of the Arizona Supreme Court each appoint one member. Of the 19 states with similar independent salary commissions, only Arizona and Nevada require voter approval of the commission's recommendations.

Since 1972, CSECO has frequently recommended increases in salaries for state legislators. Securing a pay raise for legislators, however, has been difficult. Voters have rejected 15 of the 17 commission's recommendations for a pay increase. The salary has not risen since January 1999, following voter approval of a hike to \$24,000 a year, up from \$15,000 the previous November.

The Commission's current recommendation for an increase of \$11,000 is based on an estimate of how much is needed to adjust for changes in the cost of living since 1999. The Joint Legislative Budget Committee estimates the annual fiscal impact of the proposed change at \$1.3 million (\$1,318,400, to be exact). This includes the impact on salary-based benefits.

The \$24,000 salary for Arizona legislators is a bit below the average of \$26,000 or \$28,000, depending on the measure employed, for legislative salaries around the country. To some extent, legislators have maneuvered around the salary limit by voting themselves a per diem allowance.

Currently, legislators from Maricopa County receive \$35 for each day they serve in session, including weekends, up to 120 days and \$10 thereafter. Legislators representing areas outside of Maricopa County and more distant from the Arizona Capitol have greater housing and other expenses. They receive \$60 per day up to 120 days and \$20 thereafter.

Counting per diem and other payments that must be reported as income, the average compensation in recent years has amounted to around \$30,000. Even so, Arizona seems to fall short compared to other states. Information provided by the non-partisan National Conference of State Legislatures, for example, indicates that in states where the legislative workload is comparable to that by Arizona legislators receive an average compensation (salary plus per diem and other payments) of \$43,429.

Arguments for

Supporters of legislative salary increases in Arizona as elsewhere often cite the need to catch up with changes in the cost of living. Some also see increasing pay as helping to improve the ability of the state to attract and retain high-quality legislators who can effectively cope with the demands of an increasingly difficult and important job. Pay hikes have been defended on the grounds that they will give more people an opportunity to serve and help make the Legislature more reflective of the state's population as a whole. A further argument in favor of an increase is that being a legislator has become nearly a full-time job when one considers not only the time spent in the regular and special sessions, but in committee work between sessions, campaigning for office, and providing constituent services.

Arguments against

In arguing against pay raises for state legislators, many opponents have acted on the assumption that the work of the legislature is or should be part-time in nature and that those who undertake this task should be motivated by a sense of civic duty rather than a desire for private gain. The ideal legislator, from this perspective, is not a professional legislator trying to make a living by passing laws, but a public-spirited citizen legislator who not only serves part time and with little financial compensation, but serves for only a limited number of terms.

Another commonly cited reason for opposing legislative pay increases has been that the Legislature is not doing a good job and that a "no" vote sends a message that there is a need for improvement. Also, in the current situation, opponents have contended that increases are inappropriate because they are too costly considering the condition of the economy and the need to meet other pressing demands on the state budget. Some critics, finally, contend that legislators are not undercompensated when one considers not only the salary and per diem payments, but their health insurance and pension benefits and the free event tickets and other gifts at least some of them receive from lobbyists.

Bottom Line

Legislative salaries in Arizona have not kept up with inflation and do not compare well with those paid to legislators in other states, even when per diem payments are included. What to do

about pay raises, however, turns on how one may view the nature of the legislative job, how well it is being performed, and the possibility that salary increases will help bring better government.

Proposition 303: The Patient’s Right to Try Act

Description

Proposition 303, put on the ballot by the Legislature, permits a manufacturer to give or sell investigational drugs, biological products, and medical devices to terminally ill patients even though the U.S. Food and Drug Administration (FDA) has not cleared them for general use. The investigational remedy must have passed the basic safety test in the FDA approval process and be prescribed by the patient’s doctor. The doctor is required to assess the risk involved so that the patient may make an informed decision. The law protects doctors who recommend the use of an investigational remedy from being disciplined by the state licensing board for doing so.

Background

This “Right to Try” measure originated with the Phoenix-based Goldwater Institute, which has pushed for its adoption not only in Arizona but in several other states around the country. Thus far, legislatures in Colorado, Missouri and Louisiana have adopted legislation along this line.

Arguments for

While the FDA currently allows terminally ill patients access to experimental drugs and treatments under its “compassionate use” program, proposition supporters contend that this process is far too cumbersome to be of much value. Supporters argue it is virtually impossible for terminally ill people to get potentially life-saving drugs and devices without going to another country. The proposition streamlines the process and eliminates the need for FDA approval. Supporters argue that by bypassing the current cumbersome FDA process the measure gives terminally ill patients an improved opportunity to prolong their lives.

While it does not compel drug companies to provide the requested drugs and devices, supporters say there will be considerable pressure to make them do so and to act in a reasonable manner when it comes to costs. The measure may well have the long-term benefit of pressuring the FDA into streamlining its compassionate use process.

Arguments against

Some health care and medical professionals have been concerned that the measure, while well-intended, will offer little more than a false hope to the terminally ill and their families. They fear that it will actually do little if anything to provide more treatment options. One reason is that drug companies are not required to provide the drugs or devices and may well be reluctant to do so because of the financial and legal risks involved. Also, doctors fearing lawsuits or the effects on a patient may be reluctant to prescribe experimental remedies. The price may prove to be

prohibitive to some patients since the proposed law does not require health insurance carriers or the state to cover the costs of the experimental drugs and devices.

Critics further point out that there is a strong possibility that an investigational treatment will not work because most of the drugs and devices that pass the initial FDA safety test do not make it to the market because they are found to be ineffective. In addition, health professionals caution that terminally ill patients risk greater suffering because of the unanticipated harmful side effects of investigational drugs and devices and may be far better off with more comforting palliative care. On the legal side, there are concerns about whether the state can curtail FDA authority and questions concerning the liability of drug companies, doctors and hospitals that participate in the program.

Bottom Line

A proposition giving terminally ill patients a better potential opportunity to prolong their lives is difficult to oppose. Still, there are reasons to be concerned about whether the proposition will actually improve treatment options, the effectiveness of the drugs and devices experimented with and the dangers in their use.

Proposition 122: Rejection of Unconstitutional Federal Actions

Description

This proposition, placed on the ballot by the Legislature as a constitutional amendment, recognizes what supporters declare is the sovereign right of Arizona voters and the state Legislature to ignore any federal law or action they think is unconstitutional and to prohibit the use of state and local personnel or financial resources in implementing any such law or action.

Background

Proposition 122 was crafted by the late Sen. Chester Crandell, R-Heber, who also was the prime sponsor of a measure dealing with state sovereignty that appeared on the ballot in 2012. That ballot issue declared the state had complete control over natural resources – including the land, water, air and wildlife – within its boundaries. This was rejected by the voters by better than a 2-to-1 margin. Proposition 122 reflects a broader movement to nullify, reject, or ignore various federal laws that have surfaced in several states in recent years.

Arguments for

Supporters of proposition 122 see it as constitutionally valid measure needed to protect the state's sovereignty from federal overreach in several program areas. Specifically mentioned by supporters are federal regulations regarding child protective services, health care, and land and water use. More broadly, supporters say the proposition would give the people and the

Legislature the power to reject federal programs, rules, and regulations they determine are of no value to the state and free up the ability of Arizonans to determine how they want to spend their tax monies.

Arguments against

Opponents label Proposition 122 as an extreme measure. They argue that encouraging Arizonans and state and local officials to simply ignore federal laws they do not like would lead to legal mayhem and subject the state to national ridicule. It could have a very negative effect on various programs such as those regarding air and water pollution. It would also be unconstitutional. Simply put, the states do not have the power to nullify federal laws on their own. The proper way to challenge federal actions is through the federal courts.

Bottom Line

Proposition 122 is a highly controversial measure being supported by a number of conservative politicians and organizations around the country who feel the need for the states to strike back against what some see as the unconstitutional expansion of federal authority. Opponents say that this proposition goes too far. They see it is an extreme and unconstitutional measure that will, if adopted, could have disastrous effects and subject the state to national ridicule.

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