



CALIFORNIA 2016
BALLOT BACKGROUNDER

Proposition **54**
Legislative Procedures

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Purpose

Proposition 54 would require the Legislature to publish amendments for 72 hours before floor votes. It also would expand access to audiovisual recordings of proceedings by allowing anyone to record proceedings and requiring the Legislature to maintain and publish recordings directly online.

Background

Legislative Process

The Legislature currently allows “gut and amend,” a procedure whereby a bill’s contents are removed and are replaced by completely different provisions, sometimes on an entirely different subject. The Legislature often holds floor votes on such bills within hours of gutting and amending them.

Critics argue that gutting and amending is problematic because it subverts the legislative process built on debate, revision, and compromise. After hours of hearings, testimony, and debate, bills undergo multiple drafts to arrive in their final form to be voted upon. When a bill is gutted and amended, there is no time for the same process to take place. There is no time to solicit input from the public, from experts, and from other legislators and there is no time to debate the merits of the new provisions. Legislators who have used the gut and amend process have been accused of taking advantage of the little to no oversight and debate by including provisions that disproportionately benefit special interest groups and individuals.

PROPOSITION 54—LEGISLATIVE PROCEDURES

Proposition 54 would place a check on the gut and amend procedure by requiring a bill to be published online in its final form for at least 72 hours before it can be voted on, except in cases where the governor has declared an emergency. These 72 hours are intended to give the public, media, and legislators themselves adequate time to understand and evaluate a bill's provisions before the Legislature votes on it.

While this reform would cut down on last minute deals and shine more light on the legislative process, some argue that “gut and amend” is an indispensable tool that gives legislators sufficient agility to create compromises over contentious issues. While the 72-hour period does provide a chance for more debate, it does not promise a compromise. For example, some argue that controversial bills such as the 2009 bipartisan budget deal would not have been possible under Proposition 54 because the diverse set of interest groups involved would passionately oppose any compromises made at their expense. In this sense, the availability of last-minute gut and amend might be thought of as a tool to avoid political deadlock and improve the efficiency of the Legislature.

Video Recording of the Legislature

The California Legislature currently creates and maintains audiovisual recordings that are published online through the California Channel as well as posted on the Senate and House websites. Similar to C-SPAN, the California Channel is a public service funded entirely by cable television providers that publishes audiovisual recordings of legislative sessions in the Assembly and Senate. Recordings are unedited and often offered in real time, giving viewers the ability to stay informed of issues being discussed and legislation being passed in Sacramento.

According to the National Conference of State Legislatures, live webcasts or television broadcasts are available from at least one house of the legislature in all 50 states and more than half of the states archive and make past recordings available online.¹ Unlike California, the majority of states televise recordings through public broadcasting entities that draw on funding from state governments and private donations. The California Channel is funded exclusively by cable television providers in California.

Currently, members of the public are not permitted to record open legislative proceedings. Additionally, recordings of legislative proceedings are not permitted to be used for political advertisements or other commercial purposes. Recordings may only be used for news or educational purposes.

¹ <http://www.ncsl.org/research/telecommunications-and-information-technology/legislative-webcasts-and-broadcasts.aspx>

PROPOSITION 54—LEGISLATIVE PROCEDURES

Proposition 54 is spearheaded and funded by activist reformer Charles Munger, Jr. and backed by a coalition that includes government reform groups (California Forward, Common Cause, League of Women Voters) as well as business and taxpayer organizations. The initiative's main opposition comes from the Democratic Party and organized labor.

Existing Law

Article IV, Section 7 of the California Constitution currently declares the proceedings of each house and committees, excepting closed sessions, open and public.

Article IV, Section 8 of the California Constitution currently declares that no bill may be passed until the bill and its amendments are printed and distributed to members of the voting house.

Section 9026.5 of the California Government Code currently prohibits the use of television recordings of legislative proceedings for political and commercial purposes, but otherwise permits footage recorded by accredited news organizations and the transmission of an unedited video feed via the California Channel.

Proposed New Law

Proposition 54 would:

- Require that before either house of the California Legislature can vote on a bill, it must be published in print and online for at least 72 hours, except in cases of emergency as submitted to the Legislature in writing by the governor.
- Require the Legislature to create, catalog, and store audiovisual visual recordings of public proceedings which must be published online within 24 hours of the recorded session.
- Allow any individual to create audiovisual recordings of open legislative proceedings and use the recordings for any legitimate purpose, including political campaign advertisements.

Fiscal Impact

The Legislative Analyst estimates that Prop. 54 would cost between \$1-2 million for initial implementation, with additional costs of approximately \$1 million annually for the recording, storage, and publishing of audiovisual recordings of legislative proceedings.

Cal Channel is paid for by cable television providers in California. Since 1993, these providers have paid more than \$23.5 million in operational expenses.² This is on par with the Legislative Analyst’s projection \$1-2 million initial cost and \$1 million annual cost thereafter. Funding for Cal Channel could be viewed as inadequate because it relies on contributions by private telecommunication companies. If for some reason these companies become unwilling or unable to meet the financial burden, public access to recorded legislative proceedings could suffer. By comparison, a constitutional provision is more stable.

Supporters

Supporters of Prop. 54 include:

- Charles T. Munger, Jr. (sole contributor to the campaign, current total contributions of \$10.5 million as of September 2016)
- California Common Cause
- California League of Women Voters
- California NAACP
- California Forward
- First Amendment Coalition
- National Federation of Independent Business, California
- California Chamber of Commerce
- California Taxpayers Association
- California Republican Party
- Kristin Olsen, California State Assembly Republican Leader
- Fred Keeley, Democratic former Speaker pro Tempore of the California State Assembly

Arguments of Supporters

- Proposition 54 increases transparency and limits the influence of special interest groups by providing the necessary information and time to debate and review legislation before its passage.
- Proposition 54 places a check on “gutting and amending,” the practice of drastically rewriting legislation at the last minute to pass provisions that benefit certain groups without time for sufficient public debate.
- Many large cities and counties in California record and publish governmental proceedings online and it is time the state Legislature caught up.

² <http://www.calchannel.com/about/>

Opponents

Opponents of Prop. 54 include:

- Californians for an Effective Legislature
- California Labor Federation
- California Democratic Party

Arguments of Opponents

- The 72-hour requirement goes too far and actually hampers representatives in the Legislature as they try to make compromises to pass contentious legislation. The three-day interval empowers special interest and lobbying groups by giving adequate time to attack compromises, making it easier for an entire bill or budget to be held up by single issue groups. This decreases efficiency in the Legislature and costs the taxpayer more in the long run. Contentious legislation, such as state budgets and the water bond passed in 2015, would have been torn apart by special interest groups and would not have passed if the 72-hour requirement were in place.
- The 72-hour requirement will apply even to small changes and create more inefficiency, costing taxpayer dollars.
- The public already has sufficient access to the proceedings of the California. Because of news media coverage, the political process is sufficiently documented and recorded for the public to stay informed.
- The funds required to record, store, and catalog audiovisual recordings could be spent better elsewhere.

Conclusion

Voting Yes on Proposition 54 will be a vote in favor of requiring any bill to be published in print and online for at least 72 hours prior to the vote; requiring the Legislature to create, maintain, and store audiovisual recordings that must be published within 24 hours of the recording; and allowing anyone to record open legislative proceedings.

Voting No on Proposition 54 will be a vote against requiring any bill to be published in print and online for at least 72 hours prior to the vote; requiring the Legislature to create, maintain, and store audiovisual recordings that must be published within 24 hours of the recording; and allowing anyone to record open legislative proceedings.

For more information on Proposition 54, visit:

www.roseinstitute.org

www.yesprop54.org

www.noonproposition54.com