



## MEMORANDUM

**To:** Honorable Speaker Anthony Rendon; Honorable Senate President Pro Tempore Kevin de León;  
Honorable Members of the California State Senate and Assembly

**From:** Proposition 54 Coalition

**Date:** December 2, 2016

**Re:** Implementation of Proposition 54

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Passage of Prop 54, the California Legislature Transparency Act, provides California with an opportunity to lead the nation in its commitment to transparency and open government. It is in this spirit that we, the core supporters of Proposition 54, are reaching out to you about its implementation. Because we are aware that the Legislative Rules are adopted early in the session, we would like to offer our assistance as you work to implement Prop 54's provisions. We are willing to help in any way desired by the Legislature to ensure the rules conform with the Act, including assistance with any relevant legal analysis and compilation of materials and representations to the public made throughout the campaign. These could be important to the courts should they be called upon to resolve any differences in interpretation.

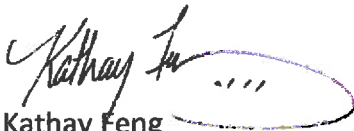
The following are a few issues that are of particular importance:

- 1) The requirement that a bill must be "in its final form, for at least 72 hours before the vote" applies to any house that is voting on a bill; not just to the final house to vote on a bill before it leaves the jurisdiction of the Legislature. This is the only logical and internally consistent interpretation based on the language, ballot materials, and purpose of Section 8 of Article IV of the Constitution. However, as long as this requirement is observed, there is the following flexibility in the requirement's application: If the bill has already been published for 72 hours and distributed to all members of both houses, once the bill has been passed off the floor of one house, a new 72-hour review period is needed for the second house only if subsequent amendments are made to the bill. Finally, given the importance of this requirement, we urge the adoption of a protocol that accurately and unambiguously establishes the start time for the 72-hour review period.
- 2) The provision that "the bill with any amendments has been printed, distributed to members, and published on the Internet, in its final form, for at least 72 hours" precludes the ability to present one version of the bill to the public on the Internet and a somewhat different version distributed to members. Similarly, it would not be permissible to publish a bill on the Internet supposedly "in its final form" that included blanks to be filled in at the time of the vote. Adding content to a blank would constitute an amendment, which must be available to the members of the Legislature and to the public for at least 72 hours.
- 3) Being "published on the Internet, in its final form, for at least 72 hours" means that the bill must be posted on the Internet in its final form for public review for at least 72 full and complete hours, prior to the vote.

4) The new public right to record a legislative proceeding, which "includes the right of any person to record by audio or video means any and all parts of the proceedings," extends to legislators, staff, press (accredited or unaccredited), and any member of the public whether or not that person is a citizen or a legal resident. This provision precludes the ability of a chair to declare a portion of a public proceeding to be in some sort of "executive session" as a means to prevent a member of the public from exercising his or her right to attend and record the proceeding. Withholding of these rights is allowed only in the event of a closed session, as defined under the Constitution in Article IV, section 7(c). Furthermore, rules to regulate the right to record a public proceeding must be "reasonable" and are limited to the "placement and use of the equipment for broadcasting the proceedings for the sole purpose of minimizing disruptions of the proceedings." This right cannot be abridged based on the subject of the public proceeding, the location of the public proceeding, or the identity of the person seeking to exercise the right.

Although Proposition 54 spoke to other issues, these seem to be the ones whose clarification in advance of the promulgation of the Rules might prove to be of the most benefit. We would be happy to discuss these issues, or any other questions you might have.

Respectfully,



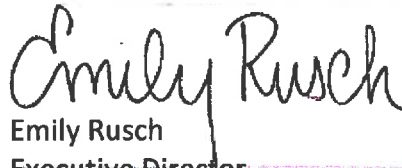
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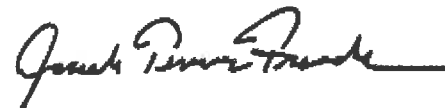
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