



June 7, 2017

VIA ELECTRONIC MAIL

VIA EXPRESS MAIL

The Honorable Kevin de León
President pro Tempore of the Senate
State Capitol, Room 205
Sacramento, CA 95814

Re: Violations of Proposition 54

Dear Senator de León:

As proponents of Proposition 54, we write to advise you of our concern that more than 50 bills were passed out of the Assembly last week and sent to the Senate without observing the Proposition's constitutional safeguard that a bill be printed, distributed to members, and published on the internet at least 72 hours before the vote. We note, with appreciation, the Senate's compliance with the 72-hour requirement regarding the bills that it sent to the Assembly.

However, the 72-hour requirement applies to *both* houses of the Legislature, and under the Proposition's express terms, failure to observe this 72-hour period jeopardizes the validity of the resulting statute as well as thwarts the transparency in the democratic process that voters demanded when they overwhelmingly adopted Proposition 54. Unfortunately, the Assembly has taken the position that Proposition 54 applies only to a vote in the second house that passes a bill. This is a clearly erroneous interpretation, as explained below. Accordingly, we respectfully urge that you either take no action on these bills (rather than advance constitutionally deficient bills subject to legal challenge) or find a means to remedy the Assembly's failure to adhere to its constitutional obligations.

As you know, Proposition 54 provides that except where waived based upon a declaration of emergency by the Governor, "*No bill may be passed or ultimately become a statute unless the bill with any amendments has been printed, distributed to the members, and published on the Internet, in its final form, for at least 72 hours before the vote . . .*" (Cal. Const., art. IV, § 8, subd. (b)(2), italics added.) Since a bill cannot be passed and become statute unless *each* house passes the bill, it should be clear that the phrase, "[n]o bill may be passed or ultimately become a statute," without at least 72 hours' notice, cannot apply to only the second house. Indeed, the very next sentence in the same subdivision provides that "[n]o bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of *each house* concurs." (*Id.*, § 8, subd. (b)(3); italics added.) Thus, the "[n]o bill may be passed" language in Proposition 54 clearly applies to "each house."

Moreover, if there remains any doubt over the meaning of Proposition 54's text, the ballot argument in the Voter Information Guide expressly stated that Proposition 54 will "[r]equire every bill to be posted online and distributed to lawmakers at least 72 hours before *each house* of the Legislature is permitted to vote on it (except when the Governor declares an emergency)." As you know, under long-standing California Supreme Court precedent, the courts consider the analysis and arguments contained in the official ballot pamphlet to

resolve any ambiguity in the interpretation of an initiative measure. (*Howard Jarvis Taxpayers Assn. v. Bowen* (2011) 192 Cal.App.4th 110, 122.)

Accordingly, the undersigned respectfully request that you take appropriate measures to remedy the Assembly's failure to adhere to the 72-hour rule in Proposition 54 in order to (1) respect the wishes of the voters, (2) honor the Legislature's constitutional obligations, and (3) avoid jeopardizing the validity of the bills that are sent to the Governor.

Respectfully,



Jonathan Stein
Board Chair
California Common Cause



Helen Hutchison
President
League of Women Voters of California



James P. Mayer
President & CEO
California Forward



Emily Rusch
Executive Director
CALPIRG



Teresa Casazza
President
California Taxpayers Association



Tom Scott
State Executive Director
National Federation of Independent
Business/California



Joseph T. Francke
Founder
Californians Aware



Jon Coupal
President
Howard Jarvis Taxpayers Association

cc: The Honorable Jerry Brown
The Honorable Anthony Rendon
The Honorable Pat Bates
The Honorable Chad Mayes