



STATE CAPITOL
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Assembly
California Legislature
Committee on Rules

RICHARD S. GORDON
CHAIR

VICE CHAIR
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MARIE WALDRON

PATTY LOPEZ (D-ALT.)
JAY OBERNOLTE (R-ALT.)

Tuesday, June 21, 2016
3:00 PM
State Capitol, Room 447

CONSENT AGENDA

Bill Referrals

1. Consent Bill Referrals

[Page 2](#)

REGULAR AGENDA

Senate Bills

2. SCA 14 (Wolk) Relative to Legislative procedure.

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REFERRAL OF BILLS TO COMMITTEE

06/21/2016

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly Bill No.

[ACR 196](#)

[ACR 197](#)

[HR 55](#)

Committee:

RLS.

TRANS.

RLS.



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Memo

To: Rules Committee Members
From: Michael Erke, Bill Referral Consultant
Date: 6/20/2016
Re: Consent Bill Referrals

Attached is a list of bill referral recommendations.



Printed on Recycled Paper

AMENDED IN ASSEMBLY JUNE 17, 2016

AMENDED IN SENATE JUNE 9, 2016

AMENDED IN SENATE JUNE 1, 2016

Senate Constitutional Amendment

No. 14

Introduced by Senator Wolk

(Principal coauthor: Assembly Member Gordon)

April 21, 2016

Senate Constitutional Amendment No. 14—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of, and by adding Section 7.3 to, Article IV thereof, relating to the Legislature.

LEGISLATIVE COUNSEL'S DIGEST

SCA 14, as amended, Wolk. Legislative procedure.

The California Constitution requires that the proceedings of each house of the Legislature and the committees thereof be open and public, except as specified.

This measure, ~~the California Legislature Transparency Act~~, would require the Legislature, commencing January 1, 2018, to make audiovisual recordings of the open and public proceedings of each house of the Legislature and the committees thereof, ~~as prescribed.~~ *prescribed, and to authorize members of the public who attend those proceedings to make recordings of and to broadcast the proceedings, as prescribed.* The measure would require the Legislature to provide ~~these~~ *its* recordings to the Legislative Counsel for purposes of making the recordings promptly available to the public and would require that the recordings remain reasonably accessible to the public for not less than 20 years. The measure would require the Legislature to enact laws to

implement these provisions, provided that the bills enacting such laws would be required to be published in final form on the Internet for at least 12 days prior to the final vote in each house.

The California Constitution prohibits either house from passing a bill until certain requirements are met, including *that a committee or house not hear or act on the bill until the 31st day after it is introduced and that the bill with amendments has been printed and distributed to the Members of the Legislature.*

~~This measure would additionally prohibit the Legislature from passing a bill unless the bill has been published on the Internet in its final form for at least 72 hours prior to the final vote in the second house. This measure would require the house of origin to pass a bill by a second rollcall vote following the final vote in the second house if the bill, as first passed in the house of origin, had not been published on the Internet in its final form for at least 72 hours prior to that vote and was not amended thereafter in the second house. The~~

This measure would authorize a committee to hear or act on a bill on the 16th day after the bill is introduced. The measure would also prohibit a bill from being passed in either house until the bill, in the form to be voted on, has been made available to the public by publishing it on the Internet for at least 72 hours before the vote. The measure would authorize the Legislature to waive these requirements, as prescribed, if specified requirements are met with respect to a state of emergency declared by the Governor.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2015–16 Regular
3 Session commencing on the first day of December 2014, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California that the Constitution of the
6 State be amended as follows:

7 ~~First—This measure shall be known, and may be cited, as the~~
8 ~~“California Legislature Transparency Act.”~~

9 ~~Second—~~

10 *First—* The people of the State of California find and declare
11 all of the following:

12 (a) It is essential to the maintenance of a democratic society
13 that public business be performed in an open and public manner,

1 and highly desirable that citizens be given the opportunity to review
2 fully every bill and express to their elected representatives their
3 views regarding a bill's merits before it is passed.

4 (b) Moreover, complex bills are often passed before Members
5 of the Legislature have any realistic opportunity to review or debate
6 them, resulting in ill-considered legislation.

7 (c) Further, although the California Constitution currently
8 provides that the proceedings of each house of the Legislature and
9 the committees thereof shall be open and public, few citizens have
10 the ability to attend legislative proceedings in person, and many
11 legislative proceedings go completely unobserved by the public
12 and press, often leaving no record of what was said.

13 (d) Yet, with the availability of modern recording technology,
14 there is no reason why public legislative proceedings should remain
15 relatively inaccessible to the public.

16 ~~Third—~~

17 *Second—* In enacting this measure, the people of the State of
18 California intend the following:

19 (a) To enhance the ability of the people of the State of California
20 to observe what is happening and has happened at the Legislature's
21 public proceedings so as to obtain the information necessary to
22 participate in the political process.

23 (b) To give the people of the State of California and their elected
24 representatives the necessary time to evaluate carefully the
25 strengths and weaknesses of ~~the final version of a bill before a~~
26 ~~vote occurs by imposing a 72-hour public notice period between~~
27 ~~the time that the final version is published on the Internet for review~~
28 ~~by the Legislature and the public and the time that the final votes~~
29 ~~are taken, except in cases of a state of emergency declared by the~~
30 ~~Governor.~~ *the bill, in the form to be voted on, has been made*
31 *available to the public by publishing it on the Internet and the time*
32 *that the bill is passed in either house.*

33 ~~Fourth—~~

34 *Third—* That Section 7.3 is added to Article IV thereof, to read:

35 SEC. 7.3. (a) Commencing January 1, 2018, the Legislature
36 shall do all of the following with respect to its open and public
37 proceedings:

38 (1) Cause audiovisual recordings to be made of all floor sessions
39 of each house of the Legislature, the committee proceedings thereof
40 at which a vote is taken or other action is recorded, and the

1 committee proceedings thereof held in the State Capitol Building
2 regardless of whether a vote is taken or an action is recorded.

3 (2) Make reasonable efforts to cause audiovisual recordings to
4 be made of all committee proceedings held outside of the State
5 Capitol Building at which no vote is taken and no action is
6 recorded.

7 (3) Make reasonable efforts to broadcast to the public, in real
8 time, all proceedings of the Legislature and the committees thereof
9 that are held in the State Capitol Building.

10 (4) *Authorize members of the public who attend the proceedings*
11 *of the Legislature and the committees thereof to make recordings*
12 *of those proceedings, subject to reasonable restrictions such as*
13 *those necessary to ensure public safety and prevent disruption of*
14 *the proceedings, and to broadcast those recordings.*

15 (b) The Legislature shall provide all *of its* audiovisual recordings
16 made pursuant to this section to the Legislative Counsel, who shall
17 make the recordings promptly available to the public. The
18 recordings shall remain reasonably accessible to the public for not
19 less than 20 years.

20 (c) The Legislature shall enact laws to implement this section,
21 provided that, notwithstanding paragraph (3) of subdivision (b) of
22 Section 8, after the 2015–16 Regular Session of the Legislature,
23 a bill implementing this section shall not be passed or ultimately
24 become a statute unless the bill is published in its final form on
25 the Internet for at least 12 days prior to the final vote in each house.

26 (d) (1) Expenditures made in furtherance of *paragraphs (1) to*
27 *(3), inclusive, of* subdivision (a) are not subject to Section 7.5.

28 (2) The Legislature shall make sufficient funds available to
29 carry out the purposes of this section.

30 ~~Fifth—~~

31 *Fourth—* That Section 8 of Article IV thereof is amended to
32 read:

33 SEC. 8. (a) At regular sessions no bill other than the budget
34 bill may be heard or acted on by ~~committee or~~ either house until
35 the 31st day after the bill is introduced ~~unless the house dispenses~~
36 ~~with this requirement~~ *or by a committee thereof until the 16th day*
37 *after the bill is introduced. The house may dispense with these*
38 *requirements* by rollcall vote entered in the journal, three-fourths
39 of the membership concurring.

1 (b) (1) The Legislature may make no law except by statute and
2 may enact no statute except by bill. No bill may be passed unless
3 it is read by title on three days in each house except that the house
4 may dispense with this requirement by rollcall vote entered in the
5 journal, two-thirds of the membership concurring.

6 (2) No bill may be passed until it has been printed and
7 distributed, with amendments, to the Members.

8 ~~(3) (A) No bill may be passed until it has been published on~~
9 ~~the Internet in its final form for at least 72 hours prior to the final~~
10 ~~vote in the second house.~~

11 ~~(B) If a bill is passed by the house of origin without having been~~
12 ~~published on the Internet in its final form for at least 72 hours prior~~
13 ~~to that vote and the bill is not amended thereafter in the second~~
14 ~~house, then the bill may not be passed except by a second rollcall~~
15 ~~vote in the house of origin following the final vote in the second~~
16 ~~house.~~

17 (3) (A) *No bill may be passed in either house until the bill, in*
18 *the form to be voted on, has been made available to the public by*
19 *publishing it on the Internet for at least 72 hours before the vote*
20 *in that house.*

21 ~~(C)~~

22 (B) Upon a rollcall vote, two-thirds of the membership
23 concurring, the requirements of this paragraph may be waived for
24 a bill if the Governor has declared a state of emergency, as defined
25 in paragraph (2) of subdivision (c) of Section 3 of Article XIII B,
26 and has submitted a written statement to the Legislature identifying
27 the bill as necessary to address the emergency.

28 ~~(D)~~

29 (C) ~~No bill shall become a statute that fails to comply with the~~
30 ~~requirements of subparagraphs subparagraph (A) and (B) and for~~
31 ~~which no waiver is obtained pursuant to subparagraph (C). (B)~~
32 ~~shall become a statute.~~

33 (4) No bill may be passed unless, by rollcall vote entered in the
34 journal, a majority of the membership of each house concurs.

35 (c) (1) Except as provided in paragraphs (2) and (3) of this
36 subdivision, a statute enacted at a regular session shall go into
37 effect on January 1 next following a 90-day period from the date
38 of enactment of the statute and a statute enacted at a special session
39 shall go into effect on the 91st day after adjournment of the special
40 session at which the bill was passed.

1 (2) A statute, other than a statute establishing or changing
2 boundaries of any legislative, congressional, or other election
3 district, enacted by a bill passed by the Legislature on or before
4 the date the Legislature adjourns for a joint recess to reconvene in
5 the second calendar year of the biennium of the legislative session,
6 and in the possession of the Governor after that date, shall go into
7 effect on January 1 next following the enactment date of the statute
8 unless, before January 1, a copy of a referendum petition affecting
9 the statute is submitted to the Attorney General pursuant to
10 subdivision (d) of Section 10 of Article II, in which event the
11 statute shall go into effect on the 91st day after the enactment date
12 unless the petition has been presented to the Secretary of State
13 pursuant to subdivision (b) of Section 9 of Article II.

14 (3) Statutes calling elections, statutes providing for tax levies
15 or appropriations for the usual current expenses of the State, and
16 urgency statutes shall go into effect immediately upon their
17 enactment.

18 (d) Urgency statutes are those necessary for immediate
19 preservation of the public peace, health, or safety. A statement of
20 facts constituting the necessity shall be set forth in one section of
21 the bill. In each house the section and the bill shall be passed
22 separately, each by rollcall vote entered in the journal, two-thirds
23 of the membership concurring. An urgency statute may not create
24 or abolish any office or change the salary, term, or duties of any
25 office, or grant any franchise or special privilege, or create any
26 vested right or interest.

27 ~~Sixth—~~

28 *Fifth—* In the event that this measure and another measure that
29 imposes transparency requirements on the Legislature, such as
30 requirements to make audiovisual recordings of legislative
31 ~~proceedings~~ *proceedings, to authorize members of the public to*
32 *record or broadcast legislative proceedings,* or to specify the
33 amount of time a bill must be publicly available before it may be
34 passed, appear on the same statewide ballot, the provisions of the
35 other measure or measures shall be deemed to be in conflict with
36 this measure. In the event that this measure receives a greater
37 number of affirmative votes than a measure deemed to be in
38 conflict with it, the provisions of this measure shall prevail in their

- 1 entirety, and the other measure or measures shall be null and void
- 2 in their entirety.

O

Date of Hearing: June 21, 2016

ASSEMBLY COMMITTEE ON RULES
Richard S. Gordon, Chair
SCA 14 (Wolk) – As Amended June 17, 2016

SENATE VOTE: 27-8

SUBJECT: Legislative procedure

SUMMARY: Prohibits the Legislature from passing a bill in either house until the bill has been available to the public for at least 72 hours before the vote, and requires the Legislature to make audiovisual recordings of public legislative proceedings including floor sessions and committee hearings. Specifically, **this bill:**

- 1) Requires, beginning January 1, 2018, that the Legislature make audiovisual recordings of all floor sessions of each house of the Legislature and the standing committees thereof at which a vote is taken or other action is recorded. Also, requires that the Legislature make audiovisual recordings of public committee proceedings held in the State Capitol Building, such as an informational hearing, where no vote is taken or action is recorded.
- 2) Requires, beginning January 1, 2018, that the Legislature make reasonable efforts to audio visually record all public committee proceedings held outside of the State Capitol Building.
- 3) Requires, beginning January 1, 2018, that the Legislature make reasonable efforts to broadcast, in real time, all public proceedings of the Legislature and the committees thereof that are held in the State Capitol Building.
- 4) Requires, beginning January 1, 2018, that the Legislature authorize members of the public who attend public legislative proceedings to make and broadcast recordings of the proceedings, subject to reasonable restrictions that ensure public safety and prevent disruption of the proceedings.
- 5) Requires the Legislature to provide all of its audiovisual recordings to the Legislative Counsel, who shall make the recordings promptly available to the public. The recordings shall remain reasonably accessible to the public for not less than 20 years.
- 6) Requires the Legislature to enact laws necessary to implement the provisions of this measure and provides that the necessary expenditures made in furtherance of the requirements in this measure are not subject to existing limitations on the Legislature's budget that were enacted by Proposition 140 of 1990.
- 7) Reduces the period of time that an introduced bill must be in print before a committee may hear or act on that bill from 30 days to 15 days. Retains the 30-day in-print requirement for bills to be heard or acted on by the floor of either house.
- 8) Prohibits a bill from being passed in either house until the bill, in the form to be voted on, has been made available to the public by publishing it on the Internet for at least 72 hours before the vote in that house. This requirement may be waived by a two-thirds vote, if the Governor

has declared a state of emergency and submitted a written statement to the Legislature identifying the bill as necessary to address the emergency.

- 9) Provides that in the event that this measure and another measure that imposes transparency requirements on the Legislature appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void in their entirety.

EXISTING LAW:

- 1) Requires, pursuant to Section 7 of Article IV of the California Constitution, that the proceedings of each house of the Legislature and the committees thereof be open and public, except as specified.
- 2) Prohibits, pursuant to Section 8 of Article IV of the California Constitution, a bill other than the budget bill to be heard or acted on by a committee or either house until the 31st day after the bill is introduced, except by a three-fourths vote.
- 3) Prohibits, pursuant to Section 8 of Article IV of the California Constitution, either house from passing a bill until the bill, with amendments, has been printed and distributed to the Members.
- 4) Prohibits, pursuant to statute, a television signal generated by the Assembly from being used for any political or commercial purpose. This restriction does not limit use of the signal by an accredited news organization or nonprofit organization for educational or public affairs programming.
- 5) Requires, pursuant to statute, the Legislative Counsel to make specified information available to the public in electronic form, including: the schedule of legislative committee hearings; a list of matters pending on the floors of both houses; the text, analysis, bill history, and vote information of each bill; and, all statutes enacted on or after January 1, 1993.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) The Legislature would incur one-time General Fund costs of up to \$2 million to purchase audiovisual recording equipment, and approximately \$1 million in ongoing General Fund costs related to personnel and storage of the audiovisual recordings. SCA 14 excludes these costs from the Legislature's annual budget, which is subject to the limits established in 1990 by Proposition 140. SCA 14, however, requires that the Legislature make sufficient funding available for these purposes.
- 2) One-time General Fund costs ranging from \$414,000 to \$552,000 to the Secretary of State for printing and mailing costs associated with placing the measure on the ballot in the next statewide election.

COMMENTS:

- 1) Purpose: In support of SCA 14, the author states:

SCA 14 would amend the California Constitution to prohibit the Legislature from approving a bill unless the bill, with any amendments, has been published on the Internet for at least 72 hours prior to the vote in that house. The 72-hour requirement would apply to all bills except those necessary to address an emergency declared by the Governor and with a 2/3 vote in each house concurring prior to the vote on the bill.

Historically, there have been many occasions when significant legislation has been voted upon and approved with little time for legislators, the press, and the public at large, to read, review, analyze, and comment on the merits of the bill.

SCA 14, if approved by the voters in November of 2016, would provide the public more time to review legislation and express their views to their elected representatives on the merits of legislation, providing greater transparency and accountability to the legislative process, while still allowing for expedited action in case of an emergency.

- 2) Recording by the public: SCA 14 allows recording of legislative proceedings by the public, subject to reasonable restrictions such as preventing disruption of the proceedings and ensuring public safety. This addresses public safety concerns raised during the joint initiative hearing held on June 15, 2016, by the Assembly Rules Committee and the Senate Elections and Constitutional Amendments Committee.
- 3) In-print requirement: SCA 14 reduces the 30-day in-print requirement for introduced bills to 15 days before a committee may hear or act on a bill. This will allow committees more time to amend, analyze, and hear bills. It will also provide the public more time to participate and provide feedback on legislation. SCA 14 retains the 30-day in-print requirement for action on the floor of the house of origin.
- 4) Competing proposal: SCA 14, along with AB 884 (Gordon), is similar in intent to an initiative measure titled the California Legislature Transparency Act (CLTA), which is currently pending signature verification.
- a) Amendments to SCA 14 since June 1 reflect an effort to clarify the initiative's ambiguities, particularly related to the 72-hour rule. The June 1 version interpreted "final form" and "the vote" to mean the vote on the floor of the second house, which is where most bills become final. The June 9 version added a provision to ensure that the house of origin had three days to vote on that final version, in the unusual case where the bill would not return to the house of origin for concurrence and the bill had not had three days in the house of origin. The current version concedes to the initiative proponents' argument that they intended to give the first house three days to review the bill before "dismissing" the bill from the house, without regard to whether the bill was in the "final form." SCA 14 therefore would clarify the ambiguity in the favor of the initiative proponents, despite the additional burden imposed by the current version. It does not reflect how the Legislature may interpret the "final form" ambiguity if the voters ultimately approve the initiative and not SCA 14.

- 5) Resolving ambiguities: SCA 14 resolves a number of identified ambiguities in the California Legislature Transparency Act initiative that could result in the initiative not having the intended legal effect, including:
- a) Passage of a bill: SCA 14 explicitly states that no bill shall become a statute if it fails to comply with the provisions of SCA 14. This enforcement clause resolves the ambiguity in the initiative which provides that “no bill may be passed or ultimately become a statute” because Section 10 of Article IV of the California Constitution provides the requirements for bills to become statutes. This unnecessary language could be interpreted to mean that a bill’s failure to comply with the other requirements in Section 8 of Article IV would not prevent that bill from becoming a statute.
 - b) 72-hour requirement: SCA 14 explicitly provides that a bill must be published on the Internet “for at least 72 hours before the vote in that house.” Unlike the language in the initiative which requires that bills be in print for “72 hours before the vote,” SCA 14 ensures that bills will be in print for 72 hours before a floor vote in either house. The ambiguous language in the initiative could reasonably be interpreted to only apply the 72-hour requirement to the last vote before a bill is presented to the Governor. This would not provide the public sufficient time to review bills that are amended in the other house of the Legislature.
 - c) Final form of a bill: SCA 14 also ensures that the 72-hour requirement applies to the “form to be voted on,” guaranteeing that amendments to a bill are in print for the intended 72 hours in each house. The initiative, on the other hand, uses ambiguous “final form” language which could reasonably be interpreted to only require 72 hours on the final version of the bill that is presented to the Governor.
- 6) Option for initiative withdrawal: Pursuant to SB 1253 (Chapter 697, Statutes of 2014), proponents of a statewide initiative or referendum measure are now allowed to withdraw the measure after filing the petitions with the Secretary of State at any time before the measure qualifies for the ballot (131 days prior to the election at which the measure will appear). This provides a mechanism for a proponent to remove a ballot initiative when the proponent comes to some form of negotiated resolution, such as an alternative passed by the Legislature.

SCA 14 has demonstrated how the negotiation process, intended by SB 1253, on an initiative should occur. SCA 14 was introduced as an alternative to the CLTA, has had numerous public hearings, and has been significantly amended to address concerns raised in those public hearings by the initiative proponents and others.

Development of amendments to SCA 14 since June 1 has involved discussion among representatives of the authors (SCA 14/AB 884), majority leadership offices, the Secretary of the Senate, and the Assembly Rules Committee, in an effort to interpret and clarify the meaning of the initiative’s language through amendments to SCA 14 and AB 884.

- 7) Prior legislation: SCA 14 is similar to the following prior bills which would have required bills be available for a specified period of time prior to consideration: SCA 10 (Wolk, 2013), ACA 1 (Olsen, 2015), SCA 3 (Morrell, 2015), and SCA 10 (Huff, 2015).

- 8) Related legislation: AB 884 (Gordon, 2016) establishes how the Legislature will arrange for audiovisual recording and disclosure of the Legislature's activities, and is contingent upon voter approval of SCA 14. AB 884 is pending on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California Newspaper Publishers Association
Rural County Representatives of California

Opposition

In light of the most recent amendments responding to the initiative proponents' objections to prior SCA 14 versions, it is unknown if there is opposition to the June 17 version of SCA 14.

Prior versions of SCA 14 were opposed by Charles T. Munger, Jr. and Sam Blakeslee (CLTA proponents), and the First Amendment Coalition.

Analysis Prepared by: Michael Erke / RLS. / (916) 319-2800