



SIDE-BY-SIDE COMPARISON: VOTERS' INITIATIVE v. SCA 14/AB 884

The bills SCA 14 and AB 884 (as amended June 9, 2016) would put an inferior measure on the ballot in direct competition with the California Legislature Transparency Act (CLTA), under conditions when only one measure can be made law, and so no support should be offered to SCA 14 and AB 884. While the amendments of June 9 are improvements over a prior version of SCA 14 and AB 884, the legislation still falls short of improving transparency as much as CLTA would.

The following is a comparison of CLTA and those bills. Given that we have had only 72 hours to review the newly amended bills, the list that follows is not necessarily a comprehensive list of the differences between CLTA and this pair of bills.

The provisions of CLTA are set in the State Constitution or in a statute that the initiative provides shall not be changed but by a vote of the people. The provisions of SCA 14 are also set in the Constitution, but the provisions of AB 884 can be changed by the Legislature. There is therefore a large difference in the security of the provisions in AB 884 compared with related provisions in CLTA.

72 hours' notice for bills

CLTA: No bill may pass out of the Assembly or Senate unless it has been posted on the Internet for at least 72 hour

SCA 14: No bill may pass out of the *second house* unless it has been posted on the Internet for at least 72 hours.

Under some circumstances, the bill may go back to the its *house of origin* for yet another vote. This provision does not mean that very legislator in the *first house* will have 72 hours to read a bill before a vote. It only means the legislators in the house of origin may vote on the bill twice.

The circumstances are: After passing the second house, a bill must go back to its first house for another rollcall vote if: a) it had been initially passed by the first house with less than 72 hours' notice, and b) it had not been amended in the second house.

Exception to 72 hours' notice in case of emergency

CLTA: 72 hours' notice must be expressly waived by a separate 2/3 roll call vote in both the Assembly and the Senate (plus requiring the governor to declare an emergency and ask *in advance* for notice to be waived).

SCA 14: The 72 hours' notice can be waived by a 2/3 rollcall vote in both the Assembly and the Senate, however there is no bar to that vote combined with a vote on the bill itself. (The actions required of the governor are the same required by CLTA; however, the waiver can be granted *after* a bill has been voted on.)

Audiovisual recordings made by the Legislature

CLTA: Requires all public proceedings of the Legislature, as already defined in the Constitution, to be audiovisual-recorded and the recordings to be posted within 24 hours.

SCA 14: Requires recording only of 1) floor sessions and committee meetings in which a vote or other action occurs, and 2) any committee meeting that occurs in the State Capitol Building.

Only requires a "reasonable effort" to: 1) record committee meetings outside the State Capitol Building where no vote or other action occurs, and 2) livestream all floor sessions and committee meetings in the State Capitol Building. *No requirements to implements theses provision by a certain date**

AB 884: (by legislative statute, and so changeable without a vote of the people). Same.

Availability of audiovisual recordings made by the Legislature

CLTA: Requires the recordings to be posted on the Internet within 24 hours, accessible on the Internet and downloadable.

SCA 14: No specifications of *if, how, or when* recordings must be available except "promptly". Successive legislatures can define differently what "promptly" means for purposes of making recordings available to the public. *No requirements to implements theses provision by a certain date**

AB 884: (by legislative statute, and so changeable without a vote of the people). Posting by the office of Legislative Counsel "within one business day." At best unclear if the Legislature may delay giving recordings to the Legislative Counsel in the first place.

SCA 14 requires enactment of statutes to implement these provisions and declares any bill doing so, after 2016, cannot become statute unless it is posted in its final form for at least 12 days prior to the final vote in each house. **By placing these provisions in the Constitution, the Constitution could be interpreted to allow the Legislature to delay the effective date of the recording requirement until the Legislature has enacted the implementing statute*

Use of audiovisual recordings made by the Legislature

CLTA: Grants the public a right to broadcast or transmit all or part of the recordings

CLTA: Recordings may be used for any “legitimate” purpose and without fee. Set in statute but not changeable except by a vote of the people.

CLTA: Recordings made by the Legislature posted on the Internet for at least of 20 years.

SCA 14: Grants no such right.

AB 884: (a legislative statute, and changeable without a vote of the people) Specifies the recordings are in the public domain.

SCA 14: Grants no such right.

AB 884: (a legislative statute, and changeable without the vote of the people). Recordings may be used by the public and without a fee. Specifies the recordings are in the public domain, but does not provide that they may be used for any “legitimate” purpose.

SCA 14: Recordings posted for only the duration of the current biennial session and next two sessions (so 4-6 years). Recordings must be “reasonably accessible” to the public for 20 years. Grants no permission to make a copy.

AB 884: (a legislative statute, changeable without a vote of the people). Recording to be archived for at least 20 years in a retrievable and perceivable format, “reasonably accessible” to the public, language which suggests that they recordings may not be immediately downloadable.

Audiovisual recordings made by persons

CLTA: Grants right of any person to record a public proceeding and broadcast or otherwise transmit it (which includes immediately). Allow Legislature to minimize any disruption.

SCA 14: Grants no such right.

AB 884: (a legislative statute, changeable without a vote of the people). Grants no such permission.

Funding of the Legislature's recordings and postings

CLTA: Costs to be taken from the existing budget for the Legislature's operations as capped by Article IV, Sec. 7.6; this provision is set in an initiative statute, and so, not changeable except by a vote of the people.

SCA 14: Expenses of making recordings of the Legislature's public proceedings are outside the spending cap and not limited. The Legislature "shall make sufficient funds available."

AB 884: (a legislative statute, changeable without a vote of the people) Makes responsibility for posting and archiving recordings the responsibility of the office of Legislative Counsel.

Competing measures

CLTA: Measure receiving the most votes prevails and the competing measure is voided.

SCA 14: Same.