

Case No. S227106

APR - 5 2016

IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA

Frank A. McGuire Clerk

Deputy

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AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF  
SOUTHERN CALIFORNIA and ELECTRONIC FRONTIER  
FOUNDATION,

*Petitioners,*

v.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,  
COUNTY OF LOS ANGELES,

*Respondent,*

COUNTY OF LOS ANGELES, and the  
LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, and the CITY  
OF LOS ANGELES, and the LOS ANGELES POLICE DEPARTMENT,  
*Real Parties in Interest.*

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After a Decision by the Court of Appeal,  
Second Appellate District, Division Three, Case No. B259392  
Los Angeles County Superior Court, Case No. BS143004  
(Hon. James C. Chalfant)

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**PETITIONERS' MOTION FOR JUDICIAL NOTICE ON  
REPLY; MEMORANDUM OF POINTS AND AUTHORITIES;  
DECLARATION OF PETER BIBRING WITH EXHIBITS A-C;  
[PROPOSED] ORDER**

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**MOTION FOR JUDICIAL NOTICE**

TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF  
JUSTICE OF THE STATE OF CALIFORNIA, AND TO THE  
ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Pursuant to Evidence Code Sections 452 and 459, Petitioners  
ACLU of Southern California and Electronic Frontier Foundation hereby  
move the Court to take judicial notice of the following:

1. The ballot materials provided to voters for California  
Proposition 59, *Public Records, Open Meetings*, in the  
November 2, 2004 general election, available from the  
California Ballot Propositions and Initiatives at UC Hastings  
Scholarship Repository, at  
[http://repository.uchastings.edu/ca\\_ballot\\_props/1221/](http://repository.uchastings.edu/ca_ballot_props/1221/), a true  
and correct copy of which is attached to the Declaration of Peter  
Bibring (Bibring Dec.) as Exhibit A; and,
2. The Assembly Floor Analysis dated September 3, 2003 for  
Senate Constitutional Amendment (SCA) 1 (2003), the  
legislative measure that placed Proposition 59 on the ballot,  
available from the California Legislative Counsel's website for  
California Legislative Information at  
[http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0001-0050/sca\\_1\\_cfa\\_20030903\\_202148\\_asm\\_floor.html](http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sca_1_cfa_20030903_202148_asm_floor.html), a true and  
correct copy of which is attached to the Bibring Dec. as Exhibit  
B; and,
3. Selected pages from the Statement of Vote for the November 2,  
2004 Election, available from the California Secretary of State's  
website at <http://elections.cdn.sos.ca.gov/sov/2004->

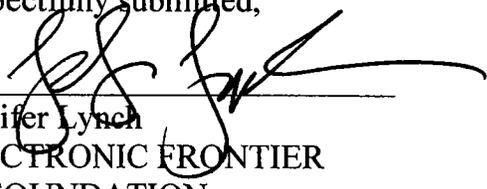
general/sov\_2004\_entire.pdf, a true and correct copy of which is attached to the Bibring Dec. as Exhibit C.

These materials were not presented to the trial court for judicial notice. Cal. Rules Ct. 8.252(a)(2)(B). The materials do not relate to any proceedings occurring after the order or judgment that is the subject of this appeal. Cal. Rules Ct. 8.252(a)(2)(D).

This Motion for Judicial Notice is based upon this Motion, the Memorandum of Points and Authorities, the attached Declaration of Peter Bibring with Exhibits A-C, all documents on record and filed in these proceedings, and on such argument as may be presented to the Court during the oral argument in this matter.

Dated: March 31, 2016

Respectfully submitted,

By: 

Jennifer Lynch

ELECTRONIC FRONTIER  
FOUNDATION

Peter Bibring  
Catherine A. Wagner  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
SOUTHERN CALIFORNIA

Attorneys for Petitioners

## MEMORANDUM OF POINTS AND AUTHORITIES

Petitioner respectfully requests that this Court judicially notice specified ballot materials, legislative history, and election returns related to Proposition 59, an amendment to California's Constitution concerning public records and open meetings that was placed on the ballot for the November 2, 2004 general election.

As set forth in Petitioner's Reply Brief, these materials are relevant to establishing the legislative and voter intent behind Proposition 59 and the constitutional provisions it enacted. Proposition 59 amended the Constitution to provide, *inter alia*, that California courts should interpret the law in favor of public access to information and that laws should be interpreted to restrict the Legislature's ability to exempt government records from public access without explicit factual findings:

(1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

Cal. Const., Art. I, § 3(b).

The ballot materials and legislative history make clear that voters intended the rule of interpretation to do more than codify existing legal standards, but intended them to strengthen existing legal presumptions in favor of disclosure in order to address the erosion of the public right of

access by judicial decisions that interpreted that right narrowly. Similarly, the provision's requirement for legislative findings on any law that restricts public access to information was intended to create a high bar for new restrictions on public access to information by requiring a clear demonstration for the need for any new limitation.

Courts may take judicial notice “of any matter specified in Section 452,” Cal. Evid. Code § 459(a), including “[o]fficial acts of the legislative . . . department . . . of any state of the United States” and of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” Evid. Code §§ 452(c), (g). Under these provisions, this Court and other California courts regularly take judicial notice of the legislative history of this state's bills. *See, e.g., Martin v. Szeto* (2004) 32 Cal. 4th 445, 449-450 & 452 n.9; *Hahn v. State Board of Equalization* (1999) 73 Cal. App. 4th 985, 992 & n.7; *Suarez v. City of Corona* (2014) 229 Cal. App. 4th 325, 331-32; *San Bernardino Cnty. v. Superior Court* (2015) 239 Cal. App. 4th 679, 686 n.6.

Indeed, this Court has previously taken notice of the legislative history for bills related to the Public Records Act as well as the ballot materials around Proposition 59. *See Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 171.

Because the documents submitted with this Motion establish important facts for this Court's consideration, Petitioners respectfully request that the Court take judicial notice of the following:

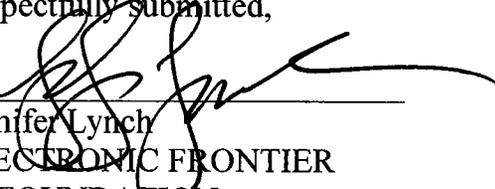
1. The ballot materials provided to voters for California Proposition 59, *Public Records, Open Meetings*, in the November 2, 2004 general election, available from the California Ballot Propositions

and Initiatives at UC Hastings Scholarship Repository, at [http://repository.uchastings.edu/ca\\_ballot\\_props/1221/](http://repository.uchastings.edu/ca_ballot_props/1221/), a true and correct copy of which is attached to the Declaration of Peter Bibring (Bibring Dec.) as Exhibit A; and,

2. The Assembly Floor Analysis dated September 3, 2003 for Senate Constitutional Amendment (SCA) 1 (2003), the legislative measure that placed Proposition 59 on the ballot, available from the California Legislative Counsel's website for California Legislative Information at [http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0001-0050/sca\\_1\\_cfa\\_20030903\\_202148\\_asm\\_floor.html](http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sca_1_cfa_20030903_202148_asm_floor.html), a true and correct copy of which is attached to the Bibring Dec. as Exhibit B; and,
3. Selected pages from the Statement of Vote for the November 2, 2004 Election, available from the California Secretary of State's website at [http://elections.cdn.sos.ca.gov/sov/2004-general/sov\\_2004\\_entire.pdf](http://elections.cdn.sos.ca.gov/sov/2004-general/sov_2004_entire.pdf), a true and correct copy of which is attached to the Bibring Dec. as Exhibit C.

Dated: March 31, 2016

Respectfully submitted,

By:   
Jennifer Lynch  
ELECTRONIC FRONTIER  
FOUNDATION

Peter Bibring  
Catherine A. Wagner  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
SOUTHERN CALIFORNIA

Attorneys for Petitioners

**[PROPOSED] ORDER**

This Court, having read and considered Petitioners ACLU of Southern California and Electronic Frontier Foundation's Motion For Judicial Notice on Reply, and good cause appearing therefore,

IT IS ORDERED that the Petitioners' Motion is GRANTED, and that the Court hereby takes judicial notice of the following documents:

1. The ballot materials provided to voters for California Proposition 59, *Public Records, Open Meetings*, in the November 2, 2004 general election, available from the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository, at [http://repository.uchastings.edu/ca\\_ballot\\_props/1221/](http://repository.uchastings.edu/ca_ballot_props/1221/).
2. The Assembly Floor Analysis dated September 3, 2003 for Senate Constitutional Amendment (SCA) 1 (2003), the legislative measure that placed Proposition 59 on the ballot, available from the California Legislative Counsel's website for California Legislative Information at [http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0001-0050/sca\\_1\\_cfa\\_20030903\\_202148\\_asm\\_floor.html](http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sca_1_cfa_20030903_202148_asm_floor.html).
3. Selected pages from the Statement of Vote for the November 2, 2004 Election, available from the California Secretary of State's website at [http://elections.cdn.sos.ca.gov/sov/2004-general/sov\\_2004\\_entire.pdf](http://elections.cdn.sos.ca.gov/sov/2004-general/sov_2004_entire.pdf).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Tani Cantil-Sakauye  
Chief Justice of the State of California

## DECLARATION OF PETER BIBRING

I, Peter Bibring, declare:

1. I am an attorney admitted to practice before all the courts in the State of California and before this Court. I am an attorney at the ACLU Foundation of Southern California, and one of the attorneys for Petitioners in this case. The matters stated herein are true of my own personal knowledge.

2. Attached as Exhibit A is a true and correct copy of the ballot materials for California Proposition 59, *Public Records, Open Meetings*, Legislative Constitutional Amendment (Nov. 2, 2004), which I downloaded from the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository, on March 30, 2016, at [http://repository.uhastings.edu/ca\\_ballot\\_props/1221/](http://repository.uhastings.edu/ca_ballot_props/1221/).

3. Attached as Exhibit B is a true and correct copy of the Assembly Floor Analysis dated September 3, 2003 for Senate Constitutional Amendment (SCA) 1 (2003), the legislative measure that placed Proposition 59 on the ballot. On March 30, 2016, I downloaded the Assembly Floor Analysis from the California Legislative Counsel's website for California Legislative Information at [http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb\\_0001-0050/sca\\_1\\_cfa\\_20030903\\_202148\\_asm\\_floor.html](http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sca_1_cfa_20030903_202148_asm_floor.html).

4. Attached as Exhibit C is a true and correct copy of selected pages from the Statement of Vote, November 2, 2004 Election, California Secretary of State Kevin Shelley, at 39 (2004). On March 30, 2016, I downloaded the Statement from the California Secretary of State's website at [http://elections.cdn.sos.ca.gov/sov/2004-general/sov\\_2004\\_entire.pdf](http://elections.cdn.sos.ca.gov/sov/2004-general/sov_2004_entire.pdf).

Included here are sections of the preface, introductory materials, and all pages reporting election results related to Proposition 59.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 30, 2016

  
Peter Bibring

**University of California, Hastings College of the Law  
UC Hastings Scholarship Repository**

Propositions

California Ballot Propositions and Initiatives

2004

**Public Records, Open Meetings. Legislative  
Constitutional Amendment.**

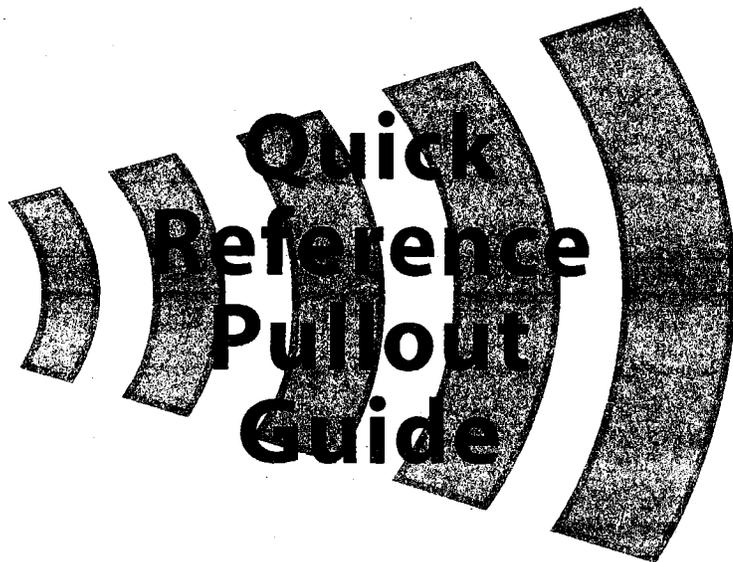
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**Recommended Citation**

Public Records, Open Meetings. Legislative Constitutional Amendment. California Proposition 59 (2004).  
[http:// repository.uchastings.edu/ca\\_ballot\\_props/1221](http://repository.uchastings.edu/ca_ballot_props/1221)

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# MAKE YOUR VOICE HEARD



**Take it with you to the Polls!**

**Election Day  
November 2, 2004**

PROP

**59**

**Public Records, Open Meetings.  
Legislative Constitutional Amendment.**

### Summary

Amends Constitution to include public's right of access to meetings of government bodies and writings of government officials. Preserves specified constitutional rights; retains existing exclusions for certain meetings and records. Fiscal Impact: Potential minor annual state and local government costs to make additional information available to the public.

### What Your Vote Means

#### Yes

A **YES** vote on this measure means: Californians would have a constitutional right of access to government information. A government entity would have to demonstrate to a somewhat greater extent why information requested by the public should be kept private.

#### No

A **NO** vote on this measure means: Access to government information would continue to be governed by existing laws.

### Arguments

#### Pro

California's government—all three branches, statewide and local—should be as transparent as possible to the public it asks for funding, power, and trust. But too often officials and judges choose secrecy over disclosure. Proposition 59 would make transparency a constitutional duty owed to the people, to whom officials are accountable.

#### Con

The press and public must, indeed, have access to the workings of state and local governments to help ensure accountability; however, the question is whether Proposition 59 goes far enough in guaranteeing that critical access.

### For Additional Information

#### For

Terry Francke  
Californians Aware  
2218 Homewood Way  
Carmichael, CA 95608  
916-487-7000  
terry@calaware.org  
www.prop59.org

#### Against

Gary B. Wesley  
Attorney at Law  
707 Continental Circle  
Mountain View, CA 94040  
408-882-5070

**OFFICIAL TITLE AND SUMMARY**

Prepared by the Attorney General

**Public Records, Open Meetings.  
Legislative Constitutional Amendment.**

Measure amends Constitution to:

- Provide right of public access to meetings of government bodies and writings of government officials.
- Provide that statutes and rules furthering public access shall be broadly construed, or narrowly construed if limiting access.
- Require future statutes and rules limiting access to contain findings justifying necessity of those limitations.
- Preserve constitutional rights including rights of privacy, due process, equal protection; expressly preserves existing constitutional and statutory limitations restricting access to certain meetings and records of government bodies and officials, including law enforcement and prosecution records.

Exempts Legislature's records and meetings.

**Summary of Legislative Analyst's Estimate of Net State and Local Government**

**Fiscal Impact:**

- Potential minor annual state and local government costs to make additional information available to the public.

**Final Votes Cast by the Legislature on SCA 1 (Proposition 59)**

|           |         |        |
|-----------|---------|--------|
| Assembly: | Ayes 78 | Noes 0 |
| Senate:   | Ayes 34 | Noes 0 |

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**BACKGROUND**

The State Constitution generally does not address the public's access to government information. California, however, has a number of state statutes that provide for the public's access to government information, including documents and meetings.

*Access to Government Documents.* There are two basic laws that provide for the public's access to government documents:

- *The California Public Records Act* establishes the right of every person to inspect and obtain copies of state and local government documents. The act requires state and local agencies to establish written guidelines for public access to documents and to post these guidelines at their offices.

- *The Legislative Open Records Act* provides that the public may inspect legislative records. The act also requires legislative committees to maintain documents related to the history of legislation.

*Access to Government Meetings.* There are several laws that provide for the public's access to government meetings:

- *The Ralph M. Brown Act* governs meetings of legislative bodies of local agencies. The act requires local legislative bodies to provide public notice of agenda items and to hold meetings in an open forum.
- *The Bagley-Keene Open Meeting Act* requires that meetings of state bodies be conducted openly and that documents related to a subject of discussion at a public meeting be made available for inspection.

**PUBLIC RECORDS, OPEN MEETINGS.  
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

PROP  
**59**

**ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)**

- *The Grunsky-Burton Open Meeting Act* requires that meetings of the Legislature be open to the public and that all persons be allowed to attend the meetings.

*Some Information Exempt From Disclosure.* While these laws provide for public access to a significant amount of information, they also allow some information to be kept private. Many of the exclusions are provided in the interest of protecting the privacy of members of the public. For instance, medical testing records are exempt from disclosure. Other exemptions are provided for legal and confidential matters. For instance, governments are allowed to hold closed meetings when considering personnel matters or conferring with legal counsel.

**PROPOSAL**

This measure adds to the State Constitution the requirement that meetings of public bodies and writings of public officials and agencies be open to public scrutiny. The measure also requires that statutes or other types of governmental decisions, including those already in effect, be broadly interpreted to further the people's right to access government information. The measure, however, still exempts some information from disclosure, such

as law enforcement records. Under the measure, future governmental actions that limit the right of access would have to demonstrate the need for that restriction.

The measure does not directly require any specific information to be made available to the public. It does, however, create a constitutional right for the public to access government information. As a result, a government entity would have to demonstrate to a somewhat greater extent than under current law why information requested by the public should be kept private. Over time, this change could result in additional government documents being available to the public.

**FISCAL EFFECT**

Government entities incur some costs in complying with the public's request for documents. Entities can charge individuals requesting this information a fee for the cost of photocopying documents. These fees, however, do not cover all costs, such as staff time to retrieve the documents. By potentially increasing the amount of government information required to be made public, the measure could result in some minor annual costs to state and local governments.

## PUBLIC RECORDS, OPEN MEETINGS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

### ARGUMENT in Favor of Proposition 59

Proposition 59 is about open and responsible government. A government that can hide what it does will never be accountable to the public it is supposed to serve. We need to know what the government is doing and how decisions are made in order to make the government work for us.

Everyone needs access to information from the government. Why was a building permit granted, or denied? Who is the Governor considering for appointment to a vacancy on the County Board of Supervisors? Why was the superintendent of the school district fired, and who is being considered as a replacement? Who did the City Council talk to before awarding a no-bid contract?

People all across the State ask these questions—and dozens of others—every day. And what they find out is that answers are hard to get.

California has laws that are supposed to help you get answers. But over the years they have been eroded by special interest legislation, by courts putting the burden on the public to justify disclosure, and by government officials who want to avoid scrutiny and keep secrets. Proposition 59 will help reverse that trend.

What will Proposition 59 do? It will create a new civil right: a constitutional right to know what the government is doing, why it is doing it, and how. It will ensure that public agencies, officials, and courts broadly apply laws that promote public knowledge. It will compel them to narrowly apply laws that limit openness in government—including discretionary privileges and exemptions that are routinely invoked even when there is no need for secrecy. It will create a high hurdle for

restrictions on your right to information, requiring a clear demonstration of the need for any new limitation. It will permit the courts to limit or eliminate laws that don't clear that hurdle. It will allow the public to see and understand the deliberative process through which decisions are made. It will put the burden on the government to show there is a real and legitimate need for secrecy before it denies you information.

At the same time, Proposition 59 ensures that private information about ordinary citizens will remain just that—private. It specifically says that your constitutional right to privacy won't be affected.

You have the right to decide how open your government should be. That's why Proposition 59 was unanimously passed by the Legislature and it is the reason widely diverse organizations support the Sunshine Amendment, including the American Federation of State, County and Municipal Employees and the League of California Cities.

As James Madison, a founding father and America's fourth President, said: "Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives." Tell the government that it's ordinary citizens—not bureaucrats—who ought to decide what we need to know. Vote yes on Proposition 59.

MIKE MACHADO, *State Senator*

JACQUELINE JACOBBERGER, *President  
League of Women Voters of California*

PETER SCHEER, *Executive Director  
California First Amendment Coalition*

### REBUTTAL to Argument in Favor of Proposition 59

As an attorney who has attempted for many years to use California laws to identify and weed out waste and corruption in local government, I am quite sympathetic to Proposition 59.

It is important, however, for voters to know what Proposition 59 would NOT do.

As written (by the State Legislature), Proposition 59 would continue to exempt from disclosure government records deemed "private" by the courts and would not apply at all to the "confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses . . .".

Voters should also consider that insofar as electing some top persons in government (i.e., having a representative democracy) is key to making career government bureaucrats more accountable, elections (especially for

State Assembly, State Senate, and Congress) have been undermined by:

- (1) the dependence on private, special interest campaign money (sometimes called "legalized bribes"); and
- (2) the self-serving creation (every 10 years) of gerrymandered legislative districts that protect incumbents from competition.

Moreover, anyone who blindly trusts a computer program to count votes (without any "paper trail" for potential verification) is foolish.

Sadly, we are a long way from having true representative democracy in California—and across America.

Government is getting bigger and becoming more wasteful, insular, and abusive. Proposition 59 would not do much to reverse that alarming trend.

GARY B. WESLEY, *Attorney at Law*

**PUBLIC RECORDS, OPEN MEETINGS.  
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

PROP  
**59**

**ARGUMENT Against Proposition 59**

This measure does not go far enough in guaranteeing the people access to information and documents possessed by state and local government agencies.

In fact, this measure only provides for a general "right of access to information concerning the conduct of the people's business" and that laws in California "shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access."

Laws are construed (i.e., interpreted) by officials charged with following them—and by courts when asked. The rule of interpretation contained in this measure would probably have a very limited effect.

Indeed, this measure explicitly states that it does not supersede or modify any "right to privacy guaranteed by Section 1" of Article I of the California Constitution.

While a right to privacy—especially against government intrusion—is critical in today's society—government employee groups are using the state constitution's "right to privacy" to hide the amount of money, benefits, and perks they receive at public expense!

Proposition 59 may be better than nothing, but it does not go far enough. The question is whether to vote "yes" and hope for more or vote "no" and demand more.

GARY B. WESLEY, *Attorney at Law*

**REBUTTAL to Argument Against Proposition 59**

Mr. Wesley's skepticism of open government laws is understandable. Several years ago, when he sued his city council under the open meeting law alleging it had illegally used a closed session to discuss a topic not mentioned on the agenda, the court would not let him question the council members about what they had discussed behind closed doors.

The court concluded that because the law did not expressly authorize such questioning and because it contained other provisions protecting closed session discussions, government officials could not be asked about what they discussed even to obtain evidence for trial, and even if there was no other way of proving a violation of the law.

In other words, he lost because the court applied the general rule of access narrowly, and the exception allowing secrecy broadly—precisely what Proposition 59 would reverse.

As for privacy, the constitution has never been interpreted to protect the abuse of official authority or the wasting of public resources by anyone, and Proposition 59 will not create a screen for anyone to use in hiding fraud, waste, or other serious misconduct.

On the contrary, Proposition 59 will add independent force to the state's laws requiring government transparency. It will create a window on how all public bodies and officials conduct the public's business, for well or ill, while sparing the dignity and reputations of ordinary people, public employees, and even high officials who have done nothing to merit public censure or concern.

MIKE MACHADO, *State Senator*

THOMAS W. NEWTON, *General Counsel  
California Newspaper Publishers Association*

JOHN RUSSO, *City Attorney  
City of Oakland*

## Proposition 59

This amendment proposed by Senate Constitutional Amendment 1 of the 2003–2004 Regular Session (Resolution Chapter 1, Statutes of 2004) expressly amends the California Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO SECTION 3 OF ARTICLE I

SEC. 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) *The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.*

(2) *A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

(3) *Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.*

(4) *Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.*

(5) *This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.*

(6) *Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.*

## Proposition 60

This amendment proposed by Senate Constitutional Amendment 18 of the 2003–2004 Regular Session (Resolution Chapter 103, Statutes of 2004) expressly amends the California Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO ARTICLE II

That Section 5 of Article II thereof is amended to read:

SEC. 5. (a) The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the

candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

(b) *A political party that participated in a primary election for a partisan office has the right to participate in the general election for that office and shall not be denied the ability to place on the general election ballot the candidate who received, at the primary election, the highest vote among that party's candidates.*

## Proposition 60A

This amendment proposed by Senate Constitutional Amendment 18 of the 2003–2004 Regular Session (Resolution Chapter 103, Statutes of 2004) expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO ARTICLE III

That Section 9 is added to Article III thereof, to read:

SEC. 9. *The proceeds from the sale of surplus state property occurring on or after the effective date of this section, and any proceeds*

*from the previous sale of surplus state property that have not been expended or encumbered as of that date, shall be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act authorized at the March 2, 2004, statewide primary election. Once the principal and interest on those bonds are fully paid, the proceeds from the sale of surplus state property shall be deposited into the Special Fund for Economic Uncertainties, or any successor fund. For purposes of this section, surplus state property does not include property purchased with revenues described in Article XIX or any other special fund moneys.*

## Proposition 61

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

The people of the State of California do enact as follows:

SECTION 1. Part 6 (commencing with Section 1179.10) is added to Division 1 of the Health and Safety Code, to read:

#### PART 6. CHILDREN'S HOSPITAL BOND ACT OF 2004

##### CHAPTER 1. GENERAL PROVISIONS

1179.10. *This part shall be known and may be cited as the Children's Hospital Bond Act of 2004.*

1179.11. *As used in this part, the following terms have the following meanings:*

(a) "Authority" means the California Health Facilities Financing Authority established pursuant to Section 15431 of the Government Code.

(b) "Children's hospital" means either:

(1) A University of California general acute care hospital described below:

(A) University of California, Davis Children's Hospital.

(B) Mattel Children's Hospital at University of California, Los Angeles.

(C) University Children's Hospital at University of California, Irvine.

(D) University of California, San Francisco Children's Hospital.

(E) University of California, San Diego Children's Hospital.

(2) A general acute care hospital that is, or is an operating entity of, a California nonprofit corporation incorporated prior to January 1, 2003, whose mission of clinical care, teaching, research, and advocacy

SENATE THIRD READING  
SCA 1 (Burton)  
As Amended June 27, 2003  
2/3 vote

SENATE VOTE :34-0

GOVERNMENTAL ORGANIZATION 18-0 ELECTIONS  
4-0

|                                |                             |
|--------------------------------|-----------------------------|
| Ayes: Jerome Horton, Bermudez, | Ayes: Longville, Samuelian, |
| Calderon, Canciamilla,         | Levine, Nunez               |
| Corbett, Frommer,              |                             |
| La Suer, Levine,               |                             |
| Longville, McCarthy,           |                             |
| Negrete McLeod, Nunez,         |                             |
| Oropeza, Reyes,                |                             |
| Samuelian, Wiggins,            |                             |
| Wyland, Yee                    |                             |

APPROPRIATIONS 24-0

|                               |  |  |  |
|-------------------------------|--|--|--|
| Ayes: Steinberg, Bates, Berg, |  |  |  |
| Lieber, Correa, Daucher,      |  |  |  |
| Diaz, Laird, Goldberg,        |  |  |  |
| Haynes, Levine,               |  |  |  |
| Maldonado, Nation,            |  |  |  |
| Negrete McLeod, Nunez,        |  |  |  |
| Pacheco, Pavley,              |  |  |  |
| Ridley-Thomas, Runner,        |  |  |  |
| Samuelian, Simitian,          |  |  |  |
| Wiggins, Yee, Mullin          |  |  |  |

SUMMARY : Confers to the people a right of access to information concerning the conduct of the people's business. Specifically, this constitutional amendment :

- 1) Provides that the people have a right of access to information concerning the conduct of the people's business, and requires meetings of public bodies and the writings of public officials

and agencies to be open to public scrutiny.

- 2) Requires a statute, court rule or other authority to be broadly construed if it furthers the right of access, and narrowly construed if it limits the right of access.
- 3) Requires a statute, court rule or other authority adopted after the effective date of this measure to include findings demonstrating the interest protected, and the need for that protection.
- 4) Specifies that these provisions do not supersede or modify the constitutionally guaranteed right to privacy, or affect the construction of any statute, court rule or other authority that protects that right to privacy.
- 5) Specifies that these provisions do not supersede or modify any other provision of the state Constitution.
- 6) Specifies that these provisions do not repeal, nullify, supersede or modify:
  - a) Any constitutional or statutory exception to the right of access to public records or meetings of public bodies; or,
  - b) Protections for the confidentiality of proceedings and records of the Legislature, its Members, employees, committees and caucuses.
- 1) Specifies that these provisions do not affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, its Members, employees, committees and caucuses.

EXISTING LAW , provides, pursuant to California Constitution (Article I, Section 3), that the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. Various statutes regulate the public's access to government information. They include the California Public Records Act, Ralph M. Brown Act, Bagley-Keene Open Meeting Act, Legislative Open Records Act, and Grunsky-Burton Open Meeting Act.

FISCAL EFFECT :

- 1) One-time General Fund costs of about \$220,000 to include analysis and arguments for and against the measure in the statewide voter pamphlet for the March 2004 election.
- 2) To the extent that, following enactment of this amendment, there are successful challenges to the application of statutes related to public records and/or open meetings, government agencies could incur additional costs, such as for responding to additional information requests. These potential costs are unknown.
- 3) The Attorney General could incur additional, absorbable costs to defend the state against litigation resulting from this amendment.

COMMENTS :

- 1) Purpose of the measure: SCA 1 represents a multi-year effort by the sponsors to include the concept of open government in the State's constitution. SCA 1 represents the author's continuing effort to address the concerns of state and local agencies and law enforcement while advancing the development of California's open government policy.

Article I, Section 3 of the California Constitution provides that the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. Article I, Section 1 specifically provides that the right to privacy is an inalienable right. Article I, Section 7 guarantees due process and equal protection of the law. Articles IV, V and VI assure the functions of the legislative, executive and judicial branches, respectively.

This SCA adds the right of access to information to California's enumerated constitutional rights. According to the sponsors, although California law provides open access through various statutes, some recent court decisions have weakened access. The California Supreme Court has recognized a "deliberative process" exception in order to protect the flow of information to the government and permit informed and efficient decision-making. This exception allows government decision-makers to maintain the confidentiality of some

documents that would show what their thought processes were in making the decisions. Although this exception was reasonable as established by the Supreme Court, the sponsors assert that it has been used unreasonably in some circumstances to withhold information from the public.

SCA 1 recognizes a fundamental right of access to meetings and records of state and local government and limits the ability of those agencies to withhold information. It does not repeal or nullify, expressly or by implication, any statutory exception to the right of access to public records or meetings of public bodies that is currently in effect. It also does not affect or modify other provisions of the Constitution.

The sponsors contend that a constitutional challenge, based on the new test provided by this provision, would be required to reverse the application of any current law. The sponsors also believe that SCA 1 will be the balancing test between the public's right to know as it relates to government proceedings and the competing right to privacy already contained in California's Constitution, in the context of and with respect for due process, equal protection, and the need for effective government.

2) Prior legislation: SCA 7 (Burton) of 2002 would have amended the Declaration of Rights contained in Article 1 of the State Constitution to provide that the people of California have a fundamental right of access to government information subject to certain narrow exceptions. SCA 7 passed the Senate by a vote of 32-0, but was held in the Assembly.

3) Approval by voters: As a Constitutional Amendment, this measure requires the approval of the voters to take effect. If approved by the Legislature by October 23, 2003, this measure would appear on the March 2, 2004 statewide primary election ballot.

Analysis Prepared by : Eric Johnson / G. O. / (916) 319-2531

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## **PREFACE**

I am pleased to provide this Statement of Vote to all Californians. This document reports voter registration and participation results for the November 2, 2004 presidential election as well as prior elections dating back to 1910.

The report contains the county-by-county totals of votes cast for the offices of President of the United States, United States Senator, United States Representative, State Senator (the odd-numbered districts), Member of the State Assembly, and for the statewide ballot measures.

**KEVIN SHELLEY**  
Secretary of State

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## ABOUT THIS STATEMENT OF VOTE

### The Introduction

This Statement of Vote contains a wealth of information. In the introductory pages, you will find the voter registration and participation statistics reported by county for this election and statewide for past general elections starting with the November 8, 1910 election. Also included are the signature requirements for qualifying an initiative or referendum measure for the ballot, or a new political party to nominate state-level candidates. The voting systems used by the counties and a brief description of each one is next, followed by a brief discussion of the processes of electing the President, United States Senators, and members of Congress and the State Legislature. The last section in the introduction contains the summaries of votes cast for ballot measures alone and for all offices and measures on the statewide ballot.

### The Statement of the Vote

The Statement of Vote reports the county-by-county vote cast for each candidate and measure on the ballot. For example, in a statewide contest such as United States Senator, the vote is reported by all 58 counties, listed in alphabetical order with the statewide total at the bottom. Candidates are listed in party alphabetical order, major parties first, followed by the smaller parties; i.e., Democratic, Republican, American Independent, Green, Libertarian, Natural Law, and Peace an Freedom. Independent and write-in candidates are listed last.

|                     | Alice<br>Appleby* | Bruce<br>Boswell | Charles<br>Corwin | David<br>Dawson | Edgar<br>Ellison | Frances<br>Farthing | Grace<br>Gibbons |
|---------------------|-------------------|------------------|-------------------|-----------------|------------------|---------------------|------------------|
|                     | DEM               | REP              | AI                | GRN             | LIB              | NL                  | PF               |
| <b>Alameda</b>      | 211,476           | 56,807           | 1,048             | 12,614          | 3,664            | 967                 | 1,522            |
| <b>Percent</b>      | 65.60%            | 17.60%           | 0.30%             | 4.00%           | 1.10%            | 0.20%               | 0.40%            |
| ~~~~~               |                   |                  |                   |                 |                  |                     |                  |
| <b>State Totals</b> | 3,759,560         | 1,697,208        | 38,836            | 99,716          | 120,622          | 26,382              | 46,278           |
| <b>Percent</b>      | 51.20%            | 23.10%           | 0.50%             | 1.40%           | 1.70%            | 0.30%               | 0.60%            |

Legislative and congressional district contests are similarly reported, indicating the counties that comprise the district. For example:

| 6 <sup>th</sup> Congressional District |                       |              |                |                     |                   |
|--|-----------------------|--------------|----------------|---------------------|-------------------|
|  | Helga<br>Hepplewhite* | Ian Ingerson | Justin Johnson | Kathleen<br>Kipling | Lance<br>Lundigan |
|  | DEM                   | REP          | GRN            | LIB                 | NL                |
| <b>Marin</b>                           | 78,457                | 32,286       | 5,627          | 1,737               | 962               |
| <b>Sonoma</b>                          | 103,659               | 47,883       | 7,621          | 2,954               | 1,932             |
| <b>District Totals</b>                 | 182,116               | 80,169       | 13,248         | 4,691               | 2,894             |
| <b>Percent</b>                         | 64.4%                 | 28.4%        | 4.6%           | 1.6%                | 1.0%              |

The "Votes not Cast in Race" column, which appears in every statewide contest, indicates the number of voters who cast ballots in that district but did not vote in the contest. Votes not cast information for congressional and legislative contests is not provided in this Statement, but is available from the Elections Division at (916) 657-2166.

Ballot Measures are reported by county in alphabetical order, with results in "For," "Against," and "Votes not Cast" order.

|                     | Proposition No. 11<br>Blue Sky |           |                           | Proposition No. 12<br>Rainy Days |           |                           | Proposition No. 13<br>Stormy Nights |           |                           |
|---------------------|--------------------------------|-----------|---------------------------|----------------------------------|-----------|---------------------------|-------------------------------------|-----------|---------------------------|
|                     | For                            | Against   | Votes Not<br>Cast in Race | For                              | Against   | Votes Not<br>Cast in Race | For                                 | Against   | Votes Not<br>Cast in Race |
| <b>Alameda</b>      | 217,751                        | 103,753   | 23,477                    | 235,745                          | 84,250    | 24,986                    | 235,918                             | 81,815    | 27,248                    |
| <b>Percent</b>      | 67.80%                         | 32.20%    | 6.81%                     | 73.70%                           | 26.30%    | 7.24%                     | 74.30%                              | 25.70%    | 7.90%                     |
| <b>Alpine</b>       | 248                            | 237       | 26                        | 260                              | 215       | 36                        | 278                                 | 190       | 43                        |
| <b>Percent</b>      | 51.20%                         | 48.80%    | 5.09%                     | 54.80%                           | 45.20%    | 7.05%                     | 59.50%                              | 40.50%    | 8.41%                     |
| <b>State Totals</b> | 4,758,638                      | 2,628,451 | 494,910                   | 4,657,600                        | 2,722,030 | 502,369                   | 4,745,872                           | 2,585,298 | 550,829                   |
| <b>Percent</b>      | 64.50%                         | 35.50%    | 6.28%                     | 63.20%                           | 36.80%    | 6.37%                     | 64.80%                              | 35.20%    | 6.99%                     |

**OFFICIAL DECLARATION OF THE RESULT OF THE GENERAL ELECTION  
HELD ON TUESDAY, NOVEMBER 2, 2004, THROUGHOUT THE STATE OF CALIFORNIA  
ON STATEWIDE MEASURES SUBMITTED TO A VOTE OF ELECTORS**

**The following laws were adopted by vote of voters:**

| <u>Number<br/>on Ballot</u> | <u>Ballot Title</u>  |
|-----------------------------|--|
| 1A                          | <b>Protection of Local Government Revenues.</b> Senate Constitutional Amendment 4, Resolution Chapter 133, Statutes of 2004. |
| 59                          | <b>Public Records. Open Meetings.</b> Senate Constitutional Amendment 1, Resolution Chapter 1, Statutes of 2004              |
| 60                          | <b>Election Rights of Political Parties.</b> Senate Constitutional Amendment 18, Resolution Chapter 103, Statutes of 2004.   |
| 60A                         | <b>Surplus Property.</b> Senate Constitutional Amendment 18, Resolution Chapter 103, Statutes of 2004.                       |
| 61                          | <b>Children's Hospital Projects. Grant Program. Bond Act.</b> Initiative Statute.  |
| 63                          | <b>Mental Health Services Expansion. Funding. Tax on Personal Incomes Above \$1 Million.</b> Initiative Statute.             |
| 64                          | <b>Limits on Private Enforcement of Unfair Business Competition Laws.</b> Initiative Statute.                                |
| 69                          | <b>DNA Samples. Collection. Database. Funding.</b> Initiative Statute.   |
| 71                          | <b>Stem Cell Research. Funding. Bonds.</b> Initiative Constitutional Amendment and Statute.                                  |

**The following proposed laws were defeated by vote of voters:**

| <u>Number<br/>on Ballot</u> | <u>Ballot Title</u>   |
|-----------------------------|---|
| 62                          | <b>Elections. Primaries.</b> Initiative Constitutional Amendment and Statute.   |
| 65                          | <b>Local Government Funds, Revenues. State Mandates.</b> Initiative Constitutional Amendment.   |
| 66                          | <b>Limitations on "Three Strikes" Law. Sex Crimes. Punishment.</b> Initiative Statute.  |
| 67                          | <b>Emergency Medical Services. Funding. Telephone Surcharge.</b> Initiative Constitutional Amendment and Statute.   |
| 68                          | <b>Non-Tribal Commercial Gambling Expansion. Tribal Gaming Compact Amendments. Revenues, Tax Exemptions.</b> Initiative Constitutional Amendment and Statute. |
| 70                          | <b>Tribal Gaming Compacts. Exclusive Gaming Rights. Contributions to State.</b> Initiative Constitutional Amendment and Statute.                              |
| 72                          | <b>Health Care Coverage Requirements.</b> Referendum Statute.   |

**VOTES FOR AND AGAINST STATEWIDE BALLOT MEASURES  
NOVEMBER 2, 2004**

| Number<br>On Ballot | For       |         | Against   |         |
|---------------------|-----------|---------|-----------|---------|
|                     | Votes     | Percent | Votes     | Percent |
| 1A                  | 9,411,198 | 83.7    | 1,840,002 | 16.3    |
| 59                  | 9,334,852 | 83.4    | 1,870,146 | 16.6    |
| 60                  | 7,227,433 | 67.6    | 3,478,774 | 32.4    |
| 60A                 | 7,776,374 | 73.3    | 2,843,435 | 26.7    |
| 61                  | 6,629,095 | 58.3    | 4,750,309 | 41.7    |
| 62                  | 5,119,155 | 46.1    | 5,968,770 | 53.9    |
| 63                  | 6,191,691 | 53.8    | 5,337,216 | 46.2    |
| 64                  | 6,571,694 | 59.0    | 4,578,725 | 41.0    |
| 65                  | 3,901,748 | 37.6    | 6,471,506 | 62.4    |
| 66                  | 5,604,060 | 47.3    | 6,238,060 | 52.7    |
| 67                  | 3,243,132 | 28.4    | 8,165,809 | 71.6    |
| 68                  | 1,897,177 | 16.2    | 9,801,284 | 83.8    |
| 69                  | 7,194,343 | 62.1    | 4,400,826 | 37.9    |
| 70                  | 2,763,800 | 23.7    | 8,880,110 | 76.3    |
| 71                  | 7,018,059 | 59.1    | 4,867,090 | 40.9    |
| 72                  | 5,709,500 | 49.2    | 5,889,936 | 50.8    |

**EFFECTIVE DATE**

“An initiative ... approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise.... If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail....”

See Cal. Const., Art. II, Sec.10.

“A proposed [legislative] amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.”

See Cal. Const., Art. XVIII, Sec. 4.

Bond Proposals submitted to the electors by the Legislature also become effective the day following approval by a majority of votes thereon.

See Cal. Const., Art. XVI, Sec. 1

## CERTIFICATE OF THE SECRETARY OF STATE

I, KEVIN SHELLEY, Secretary of State of the State of California, hereby certify:

THAT the following is a full, true, and correct statement of the result of the official canvass of the returns of the November 2, 2004, Presidential General Election.

**IN WITNESS WHEREOF, I**

hereunto set my hand and  
affix the Great Seal of  
California, at Sacramento,  
this 10th day of December, 2004.



**KEVIN SHELLEY**  
Secretary of State

**State Ballot Measures**

|                             | Proposition No. 1A                      |                  |                  | Proposition No. 59            |                  |                  | Proposition No. 60                   |                  |                  |
|-----------------------------|---|------------------|------------------|-------------------------------|------------------|------------------|--------------------------------------|------------------|------------------|
|                             | Protection of Local Government Revenues |                  |                  | Public Records, Open Meetings |                  |                  | Election Rights of Political Parties |                  |                  |
|                             | For                                     | Against          | Votes Not Cast   | For                           | Against          | Votes Not Cast   | For                                  | Against          | Votes Not Cast   |
| <b>Alameda Percent</b>      | 410,330<br>82.7%                        | 86,150<br>17.3%  | 71,435<br>12.6%  | 430,845<br>86.3%              | 68,812<br>13.7%  | 68,258<br>12.0%  | 337,226<br>71.1%                     | 137,688<br>28.9% | 93,001<br>16.4%  |
| <b>Alpine Percent</b>       | 537<br>82.8%                            | 112<br>17.2%     | 65<br>9.1%       | 551<br>84.0%                  | 105<br>16.0%     | 58<br>8.1%       | 424<br>69.3%                         | 188<br>30.7%     | 102<br>14.3%     |
| <b>Amador Percent</b>       | 14,091<br>84.4%                         | 2,610<br>15.6%   | 1,387<br>7.7%    | 13,452<br>80.5%               | 3,270<br>19.5%   | 1,366<br>7.6%    | 9,397<br>59.3%                       | 6,460<br>40.7%   | 2,231<br>12.3%   |
| <b>Butte Percent</b>        | 76,352<br>86.0%                         | 12,491<br>14.0%  | 8,124<br>8.4%    | 74,400<br>84.2%               | 14,051<br>15.8%  | 8,516<br>8.8%    | 53,401<br>63.1%                      | 31,285<br>36.9%  | 12,281<br>12.7%  |
| <b>Calaveras Percent</b>    | 17,777<br>84.9%                         | 3,168<br>15.1%   | 1,576<br>7.0%    | 17,089<br>81.8%               | 3,815<br>18.2%   | 1,617<br>7.2%    | 12,611<br>63.4%                      | 7,292<br>36.6%   | 2,618<br>11.6%   |
| <b>Colusa Percent</b>       | 4,912<br>84.4%                          | 908<br>15.6%     | 460<br>7.3%      | 4,474<br>77.4%                | 1,312<br>22.6%   | 494<br>7.9%      | 3,045<br>54.9%                       | 2,511<br>45.1%   | 724<br>11.5%     |
| <b>Contra Costa Percent</b> | 320,007<br>86.5%                        | 50,083<br>13.5%  | 48,245<br>11.5%  | 311,281<br>84.5%              | 57,503<br>15.5%  | 49,551<br>11.8%  | 232,877<br>66.3%                     | 118,797<br>33.7% | 66,661<br>15.9%  |
| <b>Del Norte Percent</b>    | 7,605<br>84.5%                          | 1,401<br>15.5%   | 485<br>5.1%      | 7,206<br>81.0%                | 1,692<br>19.0%   | 593<br>6.3%      | 5,765<br>67.8%                       | 2,748<br>32.2%   | 978<br>10.3%     |
| <b>El Dorado Percent</b>    | 66,647<br>84.5%                         | 12,293<br>15.5%  | 8,374<br>9.6%    | 64,758<br>82.6%               | 13,706<br>17.4%  | 8,850<br>10.1%   | 45,982<br>62.2%                      | 27,980<br>37.8%  | 13,352<br>15.3%  |
| <b>Fresno Percent</b>       | 183,988<br>81.9%                        | 40,859<br>18.1%  | 25,058<br>10.0%  | 178,449<br>80.2%              | 44,159<br>19.8%  | 27,297<br>10.9%  | 132,944<br>62.5%                     | 79,919<br>37.5%  | 37,042<br>14.8%  |
| <b>Glenn Percent</b>        | 7,592<br>85.2%                          | 1,323<br>14.8%   | 608<br>6.4%      | 6,907<br>78.2%                | 1,928<br>21.8%   | 688<br>7.2%      | 4,606<br>54.5%                       | 3,852<br>45.5%   | 1,065<br>11.2%   |
| <b>Humboldt Percent</b>     | 50,011<br>82.1%                         | 10,966<br>17.9%  | 5,458<br>8.2%    | 49,902<br>81.6%               | 11,256<br>18.4%  | 5,277<br>7.9%    | 36,947<br>63.4%                      | 21,364<br>36.6%  | 8,124<br>12.2%   |
| <b>Imperial Percent</b>     | 25,662<br>79.9%                         | 6,482<br>20.1%   | 2,627<br>7.6%    | 24,314<br>76.2%               | 7,603<br>23.8%   | 2,854<br>8.2%    | 20,145<br>65.5%                      | 10,631<br>34.5%  | 3,995<br>11.5%   |
| <b>Inyo Percent</b>         | 6,947<br>84.8%                          | 1,251<br>15.2%   | 528<br>6.1%      | 6,741<br>82.5%                | 1,430<br>17.5%   | 555<br>6.4%      | 5,276<br>68.2%                       | 2,464<br>31.8%   | 986<br>11.3%     |
| <b>Kern Percent</b>         | 171,114<br>84.8%                        | 30,886<br>15.2%  | 12,747<br>5.9%   | 160,430<br>80.0%              | 40,315<br>20.0%  | 14,002<br>6.5%   | 125,995<br>64.8%                     | 68,721<br>35.2%  | 20,031<br>9.3%   |
| <b>Kings Percent</b>        | 25,244<br>83.0%                         | 5,176<br>17.0%   | 2,563<br>7.8%    | 22,773<br>75.6%               | 7,378<br>24.4%   | 2,832<br>8.6%    | 17,680<br>60.3%                      | 11,668<br>39.7%  | 3,635<br>11.0%   |
| <b>Lake Percent</b>         | 19,934<br>84.5%                         | 3,658<br>15.5%   | 1,544<br>6.1%    | 19,502<br>83.2%               | 3,957<br>16.8%   | 1,677<br>6.7%    | 15,340<br>68.2%                      | 7,183<br>31.8%   | 2,613<br>10.4%   |
| <b>Lassen Percent</b>       | 9,269<br>84.7%                          | 1,683<br>15.3%   | 588<br>5.1%      | 8,692<br>80.2%                | 2,159<br>19.8%   | 689<br>6.0%      | 6,394<br>61.1%                       | 4,080<br>38.9%   | 1,066<br>9.2%    |
| <b>Los Angeles Percent</b>  | 2,210,822<br>81.6%                      | 499,775<br>18.4% | 374,985<br>12.2% | 2,211,478<br>82.8%            | 461,909<br>17.2% | 412,195<br>13.4% | 1,778,385<br>69.4%                   | 785,042<br>30.6% | 522,155<br>16.9% |
| <b>Madera Percent</b>       | 29,843<br>82.8%                         | 6,212<br>17.2%   | 3,156<br>8.1%    | 28,598<br>79.6%               | 7,343<br>20.4%   | 3,270<br>8.3%    | 21,203<br>61.2%                      | 13,447<br>38.8%  | 4,561<br>11.6%   |
| <b>Marin Percent</b>        | 105,480<br>85.9%                        | 17,332<br>14.1%  | 13,813<br>10.1%  | 106,123<br>87.7%              | 14,967<br>12.3%  | 15,535<br>11.4%  | 74,994<br>66.5%                      | 37,945<br>33.5%  | 23,686<br>17.3%  |
| <b>Mariposa Percent</b>     | 6,719<br>84.3%                          | 1,252<br>15.7%   | 1,358<br>14.6%   | 6,656<br>82.7%                | 1,400<br>17.3%   | 1,273<br>13.7%   | 4,746<br>63.7%                       | 2,706<br>36.3%   | 1,877<br>20.1%   |
| <b>Mendocino Percent</b>    | 29,733<br>84.0%                         | 5,696<br>16.0%   | 3,473<br>8.9%    | 30,119<br>84.3%               | 5,649<br>15.7%   | 3,134<br>8.1%    | 22,340<br>65.6%                      | 11,749<br>34.4%  | 4,813<br>12.4%   |
| <b>Merced Percent</b>       | 44,596<br>83.7%                         | 8,739<br>16.3%   | 5,417<br>9.2%    | 41,651<br>78.5%               | 11,470<br>21.5%  | 5,631<br>9.6%    | 33,199<br>64.3%                      | 18,444<br>35.7%  | 7,109<br>12.1%   |
| <b>Modoc Percent</b>        | 3,716<br>87.0%                          | 560<br>13.0%     | 231<br>5.1%      | 3,619<br>84.6%                | 659<br>15.4%     | 229<br>5.1%      | 2,458<br>59.7%                       | 1,665<br>40.3%   | 384<br>8.5%      |

**State Ballot Measures**

|                                    | Proposition No. 1A<br>Protection of Local Government<br>Revenues |                  |                   | Proposition No. 59<br>Public Records, Open Meetings |                  |                   | Proposition No. 60<br>Election Rights of Political Parties |                  |                   |
|------------------------------------|--|------------------|-------------------|---|------------------|-------------------|--|------------------|-------------------|
|                                    | For  | Against          | Votes Not<br>Cast | For   | Against          | Votes Not<br>Cast | For  | Against          | Votes Not<br>Cast |
|                                    |  |                  |                   |   |                  |                   |  |                  |                   |
| <b>Mono<br/>Percent</b>            | 4,196<br>86.5%   | 656<br>13.5%     | 560<br>10.4%      | 4,231<br>85.2%                                      | 739<br>14.8%     | 442<br>8.2%       | 3,118<br>67.2%   | 1,526<br>32.8%   | 768<br>14.2%      |
| <b>Monterey<br/>Percent</b>        | 103,528<br>88.6%   | 13,367<br>11.4%  | 9,856<br>7.8%     | 99,286<br>85.4%                                     | 17,009<br>14.6%  | 10,456<br>8.3%    | 82,628<br>73.6%  | 29,685<br>26.4%  | 14,438<br>11.4%   |
| <b>Napa<br/>Percent</b>            | 44,140<br>84.5%  | 8,113<br>15.5%   | 4,842<br>8.5%     | 42,376<br>81.7%                                     | 9,540<br>18.3%   | 5,179<br>9.1%     | 32,441<br>65.2%  | 17,390<br>34.8%  | 7,264<br>12.7%    |
| <b>Nevada<br/>Percent</b>          | 42,512<br>85.4%  | 7,274<br>14.6%   | 4,722<br>8.7%     | 42,975<br>86.1%                                     | 6,976<br>13.9%   | 4,557<br>8.4%     | 31,485<br>66.5%  | 15,888<br>33.5%  | 7,135<br>13.1%    |
| <b>Orange<br/>Percent</b>          | 810,741<br>83.4%   | 162,149<br>16.6% | 121,515<br>11.1%  | 808,034<br>82.4%                                    | 173,476<br>17.6% | 112,895<br>10.3%  | 634,521<br>67.8%   | 302,325<br>32.2% | 157,559<br>14.4%  |
| <b>Placer<br/>Percent</b>          | 122,617<br>86.2%   | 19,746<br>13.8%  | 12,134<br>7.9%    | 118,880<br>84.2%                                    | 22,448<br>15.8%  | 13,169<br>8.5%    | 89,360<br>66.1%  | 45,875<br>33.9%  | 19,262<br>12.5%   |
| <b>Plumas<br/>Percent</b>          | 9,239<br>86.8%   | 1,410<br>13.2%   | 644<br>5.7%       | 8,835<br>83.4%                                      | 1,769<br>16.6%   | 689<br>6.1%       | 6,391<br>62.4%   | 3,854<br>37.6%   | 1,048<br>9.3%     |
| <b>Riverside<br/>Percent</b>       | 446,149<br>85.6%   | 75,614<br>14.4%  | 40,735<br>7.2%    | 420,526<br>81.3%                                    | 97,003<br>18.7%  | 44,969<br>8.0%    | 338,517<br>67.6%   | 162,520<br>32.4% | 61,461<br>10.9%   |
| <b>Sacramento<br/>Percent</b>      | 357,793<br>81.5%   | 81,395<br>18.5%  | 42,824<br>8.9%    | 362,398<br>82.6%                                    | 76,774<br>17.4%  | 42,840<br>8.9%    | 259,609<br>61.4%   | 163,335<br>38.6% | 59,068<br>12.3%   |
| <b>San Benito<br/>Percent</b>      | 15,179<br>86.4%  | 2,394<br>13.6%   | 1,718<br>8.9%     | 14,308<br>82.3%                                     | 3,085<br>17.7%   | 1,898<br>9.8%     | 11,484<br>67.4%  | 5,566<br>32.6%   | 2,241<br>11.6%    |
| <b>San Bernardino<br/>Percent</b>  | 407,426<br>84.5%   | 75,157<br>15.5%  | 45,804<br>8.7%    | 384,692<br>80.8%                                    | 91,584<br>19.2%  | 52,111<br>9.9%    | 309,031<br>66.9%   | 153,587<br>33.1% | 65,769<br>12.5%   |
| <b>San Diego<br/>Percent</b>       | 871,074<br>86.0%   | 142,963<br>14.0% | 130,998<br>11.4%  | 877,191<br>86.5%                                    | 138,053<br>13.5% | 129,791<br>11.3%  | 682,388<br>71.9%   | 266,778<br>28.1% | 195,869<br>17.1%  |
| <b>San Francisco<br/>Percent</b>   | 233,998<br>76.2%   | 73,138<br>23.8%  | 54,686<br>15.1%   | 272,261<br>87.4%                                    | 39,486<br>12.6%  | 50,075<br>13.8%   | 217,225<br>73.7%   | 77,700<br>26.3%  | 66,897<br>18.5%   |
| <b>San Joaquin<br/>Percent</b>     | 150,132<br>84.4%   | 27,805<br>15.6%  | 13,804<br>7.2%    | 142,042<br>80.7%                                    | 34,052<br>19.3%  | 15,647<br>8.2%    | 107,184<br>63.0%   | 63,116<br>37.0%  | 21,441<br>11.2%   |
| <b>San Luis Obispo<br/>Percent</b> | 104,708<br>88.3%   | 13,895<br>11.7%  | 11,631<br>8.9%    | 99,060<br>84.5%                                     | 18,244<br>15.5%  | 12,930<br>9.9%    | 78,100<br>70.4%  | 32,961<br>29.6%  | 19,173<br>14.7%   |
| <b>San Mateo<br/>Percent</b>       | 214,508<br>85.0%   | 37,995<br>15.0%  | 36,030<br>12.5%   | 210,788<br>84.8%                                    | 38,068<br>15.2%  | 39,677<br>13.8%   | 156,057<br>66.7%   | 78,029<br>33.3%  | 54,447<br>18.9%   |
| <b>Santa Barbara<br/>Percent</b>   | 133,312<br>86.6%   | 20,630<br>13.4%  | 17,622<br>10.3%   | 130,539<br>84.7%                                    | 23,623<br>15.3%  | 17,402<br>10.1%   | 96,105<br>66.1%  | 49,394<br>33.9%  | 26,065<br>15.2%   |
| <b>Santa Clara<br/>Percent</b>     | 455,923<br>84.9%   | 81,197<br>15.1%  | 73,025<br>12.0%   | 458,466<br>85.7%                                    | 76,884<br>14.3%  | 74,795<br>12.3%   | 339,684<br>66.6%   | 171,032<br>33.4% | 99,429<br>16.3%   |
| <b>Santa Cruz<br/>Percent</b>      | 95,695<br>86.5%  | 15,057<br>13.5%  | 12,523<br>10.2%   | 98,101<br>88.2%                                     | 13,176<br>11.8%  | 11,998<br>9.7%    | 71,792<br>68.3%  | 33,429<br>31.7%  | 18,054<br>14.7%   |
| <b>Shasta<br/>Percent</b>          | 63,462<br>86.6%  | 9,881<br>13.4%   | 5,017<br>6.4%     | 59,132<br>81.1%                                     | 13,819<br>18.9%  | 5,409<br>6.9%     | 44,103<br>62.4%  | 26,592<br>37.6%  | 7,665<br>9.8%     |
| <b>Sierra<br/>Percent</b>          | 1,575<br>83.8%   | 306<br>16.2%     | 102<br>5.1%       | 1,514<br>80.8%                                      | 361<br>19.2%     | 108<br>5.5%       | 1,065<br>60.2%   | 705<br>39.8%     | 213<br>10.7%      |
| <b>Siskiyou<br/>Percent</b>        | 16,600<br>84.2%  | 3,134<br>15.8%   | 1,961<br>9.0%     | 15,775<br>80.5%                                     | 3,830<br>19.5%   | 2,090<br>9.6%     | 12,908<br>68.1%  | 6,065<br>31.9%   | 2,722<br>12.6%    |
| <b>Solano<br/>Percent</b>          | 117,156<br>84.2%   | 22,086<br>15.8%  | 10,815<br>7.2%    | 112,685<br>81.5%                                    | 25,627<br>18.5%  | 11,745<br>7.8%    | 85,266<br>64.3%  | 47,383<br>35.7%  | 17,408<br>11.6%   |
| <b>Sonoma<br/>Percent</b>          | 173,729<br>85.5%   | 29,548<br>14.5%  | 19,261<br>8.7%    | 171,724<br>84.6%                                    | 31,447<br>15.4%  | 19,367<br>8.7%    | 120,758<br>62.6%   | 72,166<br>37.4%  | 29,614<br>13.3%   |
| <b>Stanislaus<br/>Percent</b>      | 114,983<br>87.8%   | 15,997<br>12.2%  | 16,683<br>11.3%   | 111,723<br>81.8%                                    | 25,005<br>18.2%  | 10,935<br>7.4%    | 85,722<br>65.2%  | 45,885<br>34.8%  | 16,056<br>10.9%   |

**State Ballot Measures**

|                     | <b>Proposition No. 1A</b>                      |                |                       | <b>Proposition No. 59</b>            |                |                       | <b>Proposition No. 60</b>                   |                |                       |
|---------------------|--|----------------|-----------------------|--------------------------------------|----------------|-----------------------|---|----------------|-----------------------|
|                     | <b>Protection of Local Government Revenues</b> |                |                       | <b>Public Records, Open Meetings</b> |                |                       | <b>Election Rights of Political Parties</b> |                |                       |
|                     | <b>For</b>                                     | <b>Against</b> | <b>Votes Not Cast</b> | <b>For</b>                           | <b>Against</b> | <b>Votes Not Cast</b> | <b>For</b>                                  | <b>Against</b> | <b>Votes Not Cast</b> |
| <b>Sutter</b>       | 23,143   | 4,854          | 2,787                 | 22,263                               | 5,540          | 2,981                 | 17,312                                      | 9,642          | 3,830                 |
| <b>Percent</b>      | 82.7%  | 17.3%          | 9.1%                  | 80.1%                                | 19.9%          | 9.7%                  | 64.3%                                       | 35.7%          | 12.4%                 |
| <b>Tehama</b>       | 17,962   | 4,259          | 1,383                 | 17,215                               | 4,910          | 1,479                 | 12,500                                      | 8,849          | 2,255                 |
| <b>Percent</b>      | 80.9%  | 19.1%          | 5.9%                  | 77.9%                                | 22.1%          | 6.3%                  | 58.6%                                       | 41.4%          | 9.6%                  |
| <b>Trinity</b>      | 5,382  | 861            | 336                   | 5,157                                | 1,048          | 374                   | 3,779                                       | 2,196          | 604                   |
| <b>Percent</b>      | 86.3%  | 13.7%          | 5.1%                  | 83.2%                                | 16.8%          | 5.7%                  | 63.3%                                       | 36.7%          | 9.2%                  |
| <b>Tulare</b>       | 76,568   | 15,665         | 7,276                 | 70,711                               | 20,934         | 7,864                 | 52,947                                      | 35,864         | 10,698                |
| <b>Percent</b>      | 83.1%  | 16.9%          | 7.3%                  | 77.2%                                | 22.8%          | 7.9%                  | 59.7%                                       | 40.3%          | 10.8%                 |
| <b>Tuolumne</b>     | 21,803   | 3,209          | 1,779                 | 20,404                               | 4,314          | 2,073                 | 14,804                                      | 8,970          | 3,017                 |
| <b>Percent</b>      | 87.2%  | 12.8%          | 6.6%                  | 82.6%                                | 17.4%          | 7.7%                  | 62.3%                                       | 37.7%          | 11.3%                 |
| <b>Ventura</b>      | 241,531  | 41,611         | 32,990                | 233,374                              | 47,772         | 34,986                | 177,339                                     | 93,147         | 45,646                |
| <b>Percent</b>      | 85.4%  | 14.6%          | 10.4%                 | 83.1%                                | 16.9%          | 11.1%                 | 65.6%                                       | 34.4%          | 14.4%                 |
| <b>Yolo</b>         | 51,767   | 14,453         | 6,733                 | 54,784                               | 12,270         | 5,899                 | 38,505                                      | 25,177         | 9,271                 |
| <b>Percent</b>      | 78.2%  | 21.8%          | 9.2%                  | 81.8%                                | 18.2%          | 8.1%                  | 60.5%                                       | 39.5%          | 12.7%                 |
| <b>Yuba</b>         | 13,739   | 3,117          | 1,382                 | 13,392                               | 3,432          | 1,414                 | 9,925                                       | 6,314          | 1,999                 |
| <b>Percent</b>      | 81.6%  | 18.4%          | 7.6%                  | 79.7%                                | 20.3%          | 7.8%                  | 61.2%                                       | 38.8%          | 11.0%                 |
| <b>State Totals</b> | 9,411,198                                      | 1,840,002      | 1,338,483             | 9,334,852                            | 1,870,146      | 1,384,685             | 7,227,433                                   | 3,478,774      | 1,883,476             |
| <b>Percent</b>      | 83.7%  | 16.3%          | 10.6%                 | 83.4%                                | 16.6%          | 11.0%                 | 67.6%                                       | 32.4%          | 15.0%                 |

**CERTIFICATE OF SERVICE**

I, Madeleine Mulkern, do hereby affirm I am employed in the County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action. My business address is 815 Eddy Street, San Francisco, California 94109. I am employed in the office of a member of the bar of this court at whose direction the service was made.

On April 1, 201;, I served the foregoing document: **PETITIONERS' MOTION FOR JUDICIAL NOTICE ON REPLY; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF PETER BIBRING WITH EXHIBITS A-C; [PROPOSED] ORDER** on the parties in this action by placing a true and correct copy of each document thereof, enclosed in a sealed envelope on the persons below as follows:

Court of Appeal of California  
Second Appellate District  
Division Three  
Ronald Reagan State Building  
300 S. Spring Street  
2nd Floor, North Tower  
Los Angeles, CA 90013

Los Angeles County Superior Court  
Stanley Mosk Courthouse  
Honorable James C. Chalfant  
111 North Hill Street, Dept. 85  
Los Angeles, CA 90012

Heather L. Aubry, Deputy City Attorney  
200 North Main Street  
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**Attorneys for Real Parties in Interest:** City of Los Angeles and Los Angeles Police Department

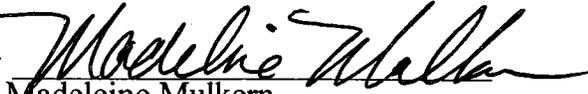
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Eric Brown  
Tomas A. Guterres  
Collins Collins Muir & Stewart, LLP  
1100 El Centro Street  
South Pasadena, CA 91030

**Attorneys for Real Parties in Interest:** County of Los Angeles

I deposited the sealed envelopes with the United States Postal Service, with postage thereon fully prepaid. I am a resident of the county where the mailing occurred. The envelope was placed in the mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on April 1, 2016.

By   
Madeleine Mulkern