

CITY OF SAN DIEGO

Proposition D

(This proposition will appear on the ballot in the following form.)

PROP D AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 216.1, ACCESS TO GOVERNMENT INFORMATION. Shall the City Charter be amended to provide that the people have the right of access to information concerning the conduct of the people's business?

This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition
follows the argument.**

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council has authorized the placement of a proposition on the ballot seeking voter approval to amend the San Diego City Charter by adding new section 216.1, titled "Access to Government Information," and containing language regarding the public's right to access government meetings and documents. Such language acknowledges that the people have a right of access to information concerning the conduct of the public's business, and that meetings of public bodies and writings of public officials shall be open to public scrutiny. The measure also contains the following provisions: (1) that authorities shall be construed broadly if they effectuate the people's right of access, and narrowly construed if they limit access; (2) that any statute, court rule, or other authority adopted after the effective date of the measure that limits the right of access shall be adopted with findings demonstrating the interest protected by the exception and need to protect that interest; and (3) that nothing in its provisions supersedes or modifies any existing rights to privacy, or repeals or nullifies any existing laws that provide exceptions to rights of access.

The provisions of this measure relating to the adoption of statutes or court rules will not be controlling over actions of the state legislature or the courts because the City has no jurisdiction over those entities.

The City of San Diego will continue to be governed by state constitutional provisions and pre-emptive state laws regarding open meetings (the Brown Act) and access to public documents (the Public Records Act), and future changes to those laws may affect the application of this measure. In addition, a proposed constitutional amendment, entitled "Access to Government Information," and designated as "Proposition 59" will appear on the November 2, 2004, ballot and contains provisions that are virtually identical to this proposed Charter amendment. If adopted, this Charter amendment will be effective for the City irrespective of the vote on Proposition 59.

This ballot measure will take effect if passed by a majority of the City's voters.

CITY MANAGER'S FISCAL ANALYSIS

This ballot measure would amend the City Charter to add a provision similar to California Senate Constitutional Amendment No. 1 (SCA 1), assuring the right of the people to have access to public information pertaining to the conduction of the people's business. The City of San Diego currently provides full access to applicable information to the public. It is anticipated that the passage of this measure would not result in any additional expense to the City of San Diego.

ARGUMENT IN FAVOR OF PROPOSITION D

MORE ACCOUNTABLE GOVERNMENT

The public has a right to a government that is open, responsive and accountable to the people it serves. The citizens of San Diego deserve to know what their government is doing, how decisions are made and what information was used to make those decisions.

MORE OPEN GOVERNMENT

The Access to Government Information Charter Amendment will help create a more open government, by requiring public officials to make it easier for the public to access information and obtain documents. The burden will be on the government to show there is a real and legitimate need for secrecy before any requested information is kept secret.

MORE RESPONSIBLE GOVERNMENT

At the same time, the Access to Government Information Charter Amendment ensures that private information about ordinary citizens will remain private. It specifically states that "Nothing in the Section supercedes or modifies the right of privacy guaranteed by Section 1 of the California Constitution. . . ."

The public, not the politicians, should decide on the people's right to know. **Please vote "YES" on Prop D** – for more accountable, open and responsible government.

Thank you.

DONNA FRYE
San Diego City Councilmember

TONI ATKINS
San Diego Deputy Mayor

J. W. AUGUST
Chairman FOI/Open Government Committee
Society of Professional Journalists
San Diego Chapter

JOSEPH T. FRANCKE
General Counsel
Californians Aware

NORMA DAMASHEK
VP Public Policy
League of Women Voters San Diego

ARGUMENT AGAINST PROPOSITION D

No argument against the proposition was filed
in the office of the City Clerk.

PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined.)

Section 216.1: Access to Government Information

- (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 Section, 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 Section 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 Section supersedes or modifies the right of privacy guaranteed by Section 1 of the California Constitution 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 Section supersedes or modifies any provision of this Charter or the California 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.
- (5) This Section 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 Section, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.