

8/1/74

Memorandum 74-40

Subject: Commission Output 1974-77

In order to complete the portions of the budget and the Annual Report that call for projections of Commission output, it is necessary that the Commission make determinations as to its planned output during the next few years. With this memorandum, we submit staff recommendations on output for review and revision by the Commission. We will revise the output projections in the budget and Annual Report to reflect any such revisions and to reflect the actual production at the September and October 1974 meetings.

Attached as Exhibit I is a recommended schedule for the 1975-76 and 1977-78 legislative programs. This schedule is outlined below. You will note that the staff recommends that we schedule our legislative proposals for submission to the first year of the 1975-76 session (1975) and the first year of the 1977-78 session (1977) and that we do not introduce any new legislation in 1976 unless there is some compelling reason to do so.

1975-76 Legislative Program

1. Recommendations Relating to Eminent Domain
  - The Eminent Domain Law
  - Conforming Changes in Special District Laws
  - Condemnation Authority of State Agencies
2. Recommendation Relating to Partition Procedure
3. Recommendations Relating to Oral Modification of Written Contracts
  - Commercial Code Section 2209
  - Civil Code Section 1698
4. Evidence Code Recommendations
  - Physician-Patient Privilege
  - Business Records
5. Recommendation Relating to View By Trier of Fact in Civil Case

6. Recommendation Relating to Inverse Condemnation (Payment of Judgments by Local Public Entities)
7. Recommendation Relating to Unclaimed Property
8. Recommendations submitted in 1973-74 that are not enacted

1977-78 Legislative Program

1. Recommendation Relating to Liquidated Damages
2. Nonprofit Corporations
3. Enforcement of Judgments
4. Child Custody, Adoption, and Related Matters

For more detail on this recommended schedule, see Exhibit I attached.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

EXHIBIT I

1975-76 Legislative Program

1. Recommendation Proposing the Eminent Domain Law

We hope to approve the entire recommendation for printing at our October meeting. We will be able to do this if we make all of the basic decisions concerning the recommendation at the September meeting so that the Commission can review the revisions made as a result of those decisions at its October meeting. Failure to approve the recommendation for printing at the October meeting will result in considerable delay in receiving the printed publication since the printer must give the Governor's Budget priority in December.

2. Recommendation Relating to Eminent Domain Law: Conforming Changes in Special District Laws

We will need to make necessary revisions in the proposed legislation (eight bills) contained in the tentative recommendation we published on this aspect of the eminent domain study. Also we will need to revise the Comments to the sections of the proposed legislation. These revisions will be necessary to reflect any changes in the general eminent domain law we will submit to the 1975 session. This is a staff job; it should not require any significant amount of Commission time. We want to minimize the amount of material we print; we want to avoid the need to reprint the entire tentative recommendation. Perhaps we can briefly indicate the nature of the revisions needed in the special district tentative recommendation in our general eminent domain recommendation.

3. Recommendation Relating to Eminent Domain Law: Condemnation Authority of State Agencies

We will need to consider the comments we receive on this tentative recommendation. This task should be accomplished at the October meeting and the content of the proposed legislation to be submitted to the 1975 session should be determined at the October meeting. We want to avoid printing a new report on this aspect of condemnation law unless absolutely necessary.

4. Recommendation Relating to Partition Procedure

We hope to submit a recommendation on this subject to the 1975 Legislature. The staff recommends that we develop a recommendation, working with our consultant and the other experts who are helping us, and then print a recommendation to the Legislature. (We would not distribute a tentative recommendation in mimeographed form generally for comment.) The comments we receive on the printed report will be taken into account in revising the proposed legislation after it is introduced in 1975.

5. Recommendations Relating to Oral Modification of Written Contracts

We have two tentative recommendations which we have distributed for comment. We will review the comments at the September meeting and determine whether we should submit recommendations in 1975 and, if so, approve the recommendations for printing.

6. Evidence Code Recommendations

The Commission has approved two tentative recommendations to revise Evidence Code provisions for distribution for comment. We will send these out for comment as soon as we receive Commissioner Stanton's suggested editorial revisions. We will consider the comments at our October meeting and determine whether we will submit recommendations to the 1975 Legislature and, if so, will approve the recommendations for printing.

7. View by Trier of Fact in Civil Case

We have reviewed the comments we received on the tentative recommendation. Revisions made as a result of that review will be considered at the September meeting, and we are hopeful that the recommendation can be approved for printing at the September meeting.

8. Inverse Condemnation (Payment of Judgments by Local Public Entities)

We have sent out a tentative recommendation for comment and will review the comments received at the September meeting. We hope to approve the recommendation at the September meeting for printing and submission to the 1975 Legislature.

9. Prejudgment Attachment and Wage Garnishment

Should either or both of the recommendations on the above listed subjects not be enacted by the current Legislature, the staff suggests that the recommendations again be submitted in 1975. We do not necessarily require a new printed report to do this.

10. Unclaimed Property

If federal legislation on escheat of travelers checks and similar instruments is enacted, California statutes will need to be conformed. If federal legislation is not enacted, the Commission will need to determine if a new recommendation should be submitted to the 1975 session.

1977-78 Legislative Program

During 1975 and 1976, the staff expects to have a substantial legislative program under legislative consideration. We expect that substantial staff and Commission time will be required to work out problems in connection with the eminent domain bills. Accordingly, absent some compelling necessity, the staff recommends that we not attempt to prepare a legislative program to be submitted to the 1976 session. Instead, we suggest that we plan to submit recommendations not listed above to the 1977-78 session.

1. Recommendation Relating to Liquidated Damages

We plan to take up this topic in December 1974 or January 1975 with a view to preparing a recommendation that will have a reasonable chance of approval by the Legislature.

2. Nonprofit Corporations

The staff believes that it would not be too profitable to take up this topic until we have a more definite indication as to the results of the study of the General Business Corporations Law. The loss of a senior staff member requires a review of the priorities we will give to the various topics, and we do not consider this topic to be in urgent need of consideration. At the same time, the staff believes that we should aim for submitting our recommendation to the 1977 legislative session. This means we should consider this topic before the end of 1975 if possible.

3. Enforcement of Judgments

This topic should be ready for consideration early in 1975.

4. Child Custody and Adoption

This topic should be ready for consideration early in 1975.