

5/7/69

Memorandum 69-59

Subject: 1969 Legislative Program

The following is a progress report concerning the 1969 Legislative Program. All bills passed the Senate.

Powers of Appointment (SB 98, 99)

Senate Bill 98 was amended in the Assembly at the instance of the California Bankers Association to incorporate the substance of a portion of a comment into the statute. (As soon as the reprinted bill is available, we will send you a copy.) Senate Bill 99 was not amended. Both bills were approved by the Assembly Committee and will be placed on the "consent" calendar.

Claims Against Public Entities (SB 100)

See the First Supplement to this Memorandum for a discussion of the problems in connection with this bill.

Leases (SB 101)

The bill was approved by the Assembly Committee subject to a satisfactory amendment being drafted. See Second Supplement to this Memorandum.

Fictitious Business Name Certificates (SB 102)

The bill was reported "do pass" by the Assembly Committee and will be placed on the "consent" calendar.

Privileges Article of Evidence Code (SB 103)

The bill will be reported "do pass" by the Assembly Committee if one member is satisfied with the bill after studying some material I provided him. I believe that we have no problem on the bill. Assemblyman Foran is most interested in the bill and should be able to persuade the concerned

member that the bill is satisfactory. In fact, we undertook the study of this problem at his suggestion. He will carry the bill on the floor since he dropped a similar bill to become a co-author of our bill and politically needs to be the floor manager of the bill.

Mutuality of Remedy (SB 104)

The bill was amended in the Assembly to read:

Notwithstanding that the agreed counterperformance is not or would not have been specifically enforceable, specific performance may be compelled if:

(a) Specific performance would otherwise be an appropriate remedy; and

(b) The agreed counterperformance has been substantially performed or its concurrent or future performance is assured or, if the court deems necessary, can be secured to the satisfaction of the court.

Although I would have preferred not to accept the amendment, because the Chairman of the Committee insisted on it, I did not object when the Committee adopted the amendment. The bill was reported "do pass as amended" and will be placed on the "consent" calendar.

Additur and Remittitur (SB 105) _

The Committee approved the bill without change and it will be placed on the "consent" calendar.

SCR 16 -- Continues authority to study previously authorized topics and to drop one topic. Approved by Committee without change.

SCR 17 -- Approved after it was amended by Committee to add two additional topics for Commission study:

- (1) Right on Nonresident Aliens to Inherit.
- (2) Priority in setting matters for hearing or trial.

I advised the Chairman of the Committee that neither of these topics was requested for study by the Commission. The first topic had been considered by the Commission but the Commission did not want to study it unless the Legislature was of the view that it should be studied. The Chairman was strongly of the view that the topic should be studied.

I gave the Chairman a copy of the letter from Mr. Kleps suggesting the second topic, indicating that the Commission had not considered the letter, because if the topic is added this session we will save a year in time in doing something on the topic. (The topic was a timely one since the Committee had on its agenda a bill to give priority to another type of case for setting for trial.) The Chairman felt this was an excellent topic for Commission study and one that was in need of a comprehensive study.

Summary

Bills to be placed on Consent Calendar

SB 98 (powers of appointment), 99 (powers), 102 (fictitious name certificates), 104 (mutuality of remedy), 105 (additur and remittitur)

Bill to be reported "do pass" if no objections by member of Committee

SB 103 (revision of privileges article)

Measures approved by Committee but not placed on Consent Calendar

SCR 16 (continues authority to study previously authorized topics)
SCR 17 (authorizes study of six new topics)

Bill approved by Committee if satisfactory amendment can be drafted

SB 101 (leases)

Bill to be heard again on May 19

SB 100 (claims against public entities)

Respectfully submitted,

John H. DeMouilly
Executive Secretary