

Memorandum 94-42

1994 Legislative Program: Status of Bills

Attached to this memorandum is a chart showing the status of bills in the Commission's 1994 legislative program.

The major bill creating a comprehensive power of attorney statute was enacted, and bills on Family Code cleanup and clarification of the procedure for issuance of orders to show cause and temporary restraining orders are pending before the Governor. We did not set the joint tenancy/marital property bill for hearing, but plan to do additional work on it with the objective of a revised proposal for the 1995 session.

SCA 3 failed passage in the Assembly and will not be on the November ballot. Attached is an article concerning its demise. Whether there will be a trial court unification measure on the ballot for the next general election after that may depend in part on the outcome of the gubernatorial election.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

STATUS OF 1994 COMMISSION LEGISLATIVE PROGRAM
(as of September 1, 1994)

AB 2208 (Assembly Judiciary): Family Code Cleanup — SB 1907 (Campbell): Power of Attorney Law
1994
AB 3600 (Assembly Judiciary): Orders to Show Cause and SCR 34 (Roberti): Continuing Authority to Study Topics
Temporary Restraining Orders [adds statute of limitations tolling issue] *****
SB 1868 (Campbell): Effect of Joint Tenancy Title on Marital SCA 3 (Lockyer): Trial Court Unification
Property

Bill Status	AB 2208	AB 3600	SB 1868	SB 1907	SCR 34	SCA 3
Introduced	1993	Feb 25	Feb 24	Feb 25	Feb 18	1993
Last Amended	Aug 29	Aug 8		June 23	—	July 5
First House	Policy Committee	Jan 13	Not Heard	May 17	Mar 15	1993
	Fiscal Committee	Jan 19		—	May 23	1993
	Passed House	Jan 27	May 26	May 27	June 2	1993
Second House	Policy Committee	Aug 9	Aug 10	June 15	June 29	1993
	Fiscal Committee	Aug 16	—	—	Aug 11	1993
	Passed House	Aug 30	Aug 19	June 29	Aug 15	Failed
Concurrence	Aug 31	Aug 23		July 7	—	
Governor	Received			July 14	—	
	Approved			July 20	—	
Chapered by Secretary of State	Date			July 21	Aug 18	
	Chapter #			307	Res 81	

• Unless otherwise noted, all dates are in 1994 [date]: scheduled —: not applicable

Court Unity Is Dead — At Least for This Session

Leg. Prog.

S.F. Daily Journal
Thursday, 9/1/94

■ SCA3 won't go before a vote in November, but it has promises of resurrection.

By Tom Dresslar
Daily Journal Staff Writer

SACRAMENTO — After languishing on the Assembly floor for six months, legislation to unify California's trial courts finally, silently succumbed Wednesday, ending a slow death for a proposal that once seemed invincible.

Senate Constitutional Amendment 3 died when it did not come up for a second vote on the Assembly floor before the Legislature adjourned for 1994. Earlier in the day, Senate

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President Pro Tem Bill Lockyer pronounced the measure dead. Lacking the votes, the Hayward Democrat said there was "no point" in pushing for a

ballot.

The development means voters in November will not be able to decide the fate of the measure, which proponents said would save taxpayer money, allow more efficient use of judicial resources and replace the current three-tiered local court system with one that better reflects the realities of modern transportation and telecommunication.

In a July Assembly vote, the measure by Lockyer fell 13 votes short of the required two-thirds majority of 54. Lockyer was granted another chance. But by then, SCA3 had become hopelessly entangled in a web of opposition spun by superior and appeal court judges and an unlikely alliance of Republicans and minority voting rights advocates. While Lockyer worked hard to secure enough votes to reverse the outcome, he made little headway. By Monday, Lockyer had all but conceded defeat. By Wednesday, SCA3's demise was a foregone conclusion.

The death blow turned out to be the late, hard-line opposition from Gov. Pete Wilson. After supporting unification during the 1993 state budget negotiations, the governor in April announced his opposition.

Still, Capitol observers said at the time they did not expect Wilson to torpedo the measure. But torpedo it he did, scaring off Assembly Republicans by raising the specter of conservative judges being reapportioned into unfriendly, minority-dominated districts.

Administration officials sided with critics of the measure who said it would diminish the quality of justice, fail to produce the anticipated tax savings and run afoul of the federal Voting Rights Act by diluting the ballot power of minorities.

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Court Unity Dead for This Session

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Lockyer and supporters expressed frustration Wednesday, particularly with Wilson. Lockyer indicated he would try again next year, especially if Democratic challenger Kathleen Brown unseats Wilson. On the other side, opponents voiced satisfaction.

Meanwhile, there were indications Wednesday superior and municipal court judges — who in larger counties have become bitterly divided over the issue — will try to mend fences and salvage current coordination programs.

"It's no secret a number of municipal court judges are disappointed," said San Diego County Municipal Court Judge E. Mac Amos Jr., president of the California Judges Association. "A number of municipal courts will take a step back and reassess current coordination programs." But Amos expressed optimism local courts "will be able to come up with some type of coordination that expedites the process and serves the public ... In the long run, I think municipal and superior courts will get back together."

In explaining SCA3's defeat, Lockyer said, "It was purely the governor's opposition. I had seven hearings and votes without a single negative vote ... until he pushed the Assembly Republican caucus into a 'no' position. It's frustrating after working on it for two years."

Assembly Judiciary Committee Chairman Phillip Isenberg, D-Sacramento, a strong SCA3 supporter, said Wednesday: "It's Pete Wilson. Gov. Wilson has hidden from any serious discussion of any serious issue this [election] year."

He added: "He's got a bunch of friends on the San Diego Superior Court who adamantly oppose using the public's money wisely, and he has gone along with them."

Isenberg referred to reports Superior Court judges from Wilson's hometown of San Diego persuaded him to oppose SCA3.

The tune was different in the opposition camp.

"The judiciary and citizenry are better off without SCA3," said Carl West Anderson, administrative presiding judge of the 1st District Court of Appeal in San Francisco, which voted unanimously to oppose the measure. "It does not produce the savings and efficiencies proponents claim."

Meanwhile, SCA3's fate casts doubt on the future of current voluntary court coordination programs. Those efforts to con-

solidate administrative and judicial operations were launched under Isenberg's Trial Court Realignment and Efficiency Act of 1991.

Municipal court judges in several large counties, angered with their superior courts' opposition to SCA3, have signaled they might abandon local coordination programs.

San Francisco and Santa Clara municipal court judges have voted to reconsider their participation in coordination plans in the event of SCA3's demise. In San Diego, the North County Municipal Court voted July 28 to stop providing judicial aid to the Superior Court.

And in Los Angeles, Long Beach Municipal Court judges voted Aug. 4 to withdraw from the local administrative unification program if SCA3 failed. And Los Angeles Municipal Court judges voted Aug. 10 to do the same. But they said they would reconsider if Los Angeles Superior Court judges agreed to voluntarily unify judicially, as well as administratively.

Los Angeles Superior Court Presiding Judge Robert M. Mallano, who opposed SCA3 along with 85 percent of his peers, did not crow Wednesday. Instead, he expressed hope local judges would agree to save the county's coordination program.

"I'm just concerned about the aftermath now," said Mallano. "Some Municipal Court judges are upset about this, and that's understandable. But we're going to try and hold together our administrative unification." He noted Superior and Municipal Court judges plan to meet next Wednesday to discuss the issue. Alban I. Niles, presiding judge of the Los Angeles Municipal Court, confirmed representatives of the two benches will meet "regarding judicial unification." He also expressed disappointment with SCA3's defeat, saying, "Hopefully, we'll be back another day."

SCA3 essentially would have mandated the culmination of voluntary coordination efforts begun under Isenberg's 1991 law.

It would have replaced the current separate superior, municipal and justice courts with a single, unified court. A constitutional amendment is needed for complete unification because the state charter provides for separate courts.

Lockyer's measure had the look of a titan in 1993 as it sped through the Senate, then the Assembly Judiciary Committee, and the Assembly Ways and Means Committee. But when it hit the Assembly

floor, the titan fell and never got back up.

Lockyer delayed action on the floor while the California Law Revision Commission drafted recommended provisions for inclusion in the bill. As it turned out, the release of the commission's recommendations marked the beginning of SCA3's decline.

The commission proposed that judges in the unified courts be elected countywide, the scheme now used for superior court jurists. The countywide plan raised the ire of voting-rights advocates and some minority lawmakers. They feared the countywide scheme would dilute minority voting power, noting municipal court judges are now elected in subdistricts that maximize minority electoral influence.

Lockyer spent months trying to negotiate a solution to the voting-rights concerns, working in the Legislature primarily with Assemblyman Louis Caldera, D-Los Angeles. That effort only caused more problems for SCA3. Because, while Lockyer tried to resolve the voting rights issue, the opposition increased.

Superior court judges, especially in large counties, came out in opposition. They professed concern about minority voting rights. Some argued SCA3 would diminish the quality of local justice by elevating municipal court judges who may not be qualified to handle complex cases. And many superior court judges apparently resented the fact full unification would have required them to handle minor matters and equalized their pay with municipal court judges.

The appeal court judges also jumped on the opposition bandwagon. Some expressed concern about the measure's impact on appellate jurisdiction. Others questioned the purported savings. The 1st and 4th District Courts of Appeal said SCA3 would increase annual court costs by about \$22 million.

The superior and appeal court judges' opposition wouldn't have been enough to stop SCA3 by itself.

But then Wilson joined them, and that proved to be the coup de grace. He echoed their arguments in announcing his opposition.

And to secure enough Republican opposition to defeat the measure, Wilson told Assembly GOP caucus members SCA3 would elevate Jerry Brown-appointed municipal court judges and allow the Legislature to reapportion conservative judges into hostile districts.