

Leg. Prog.

August 4, 1995

Memorandum 95-36**1995 Legislative Program: Current Status**

Attached is a chart showing the status of the Commission's 1995 legislative program.

Trial Court Unification

SCA 4 (Lockyer), the successor of SCA 3 on trial court unification, has been amended to provide for unification on a county by county basis, at the discretion of the Legislature and subject to the veto of the Governor. See Exhibit pp. 1-11.

An alternate approach to trial court unification is found in SB 162 (Lockyer), which gives the Governor authority to convert municipal court judgeships to superior court judgeships as municipal court vacancies occur. See Exhibit pp. 12-13.

The Commission's resolution of authority, currently embodied in ACR 14, has been amended so it no longer refers to SCA 3, but instead authorizes the Commission to report recommendations "pertaining to statutory changes that may be necessitated by court unification." See Exhibit pp. 14-18.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

STATUS OF 1995 COMMISSION LEGISLATIVE PROGRAM
(as of August 4, 1995)

ACR 14 (Rainey): Continuing Authority to Study Topics
 SB 222 (Beverly): Uniform Prudent Investor Act
 SB 523 (Kopp): Administrative Adjudication
 SB 832 (Kopp): Debtor/Creditor Relations

SB 984 (Campbell): Power of Attorney Cleanup
 SCA 4 (Lockyer): Trial Court Unification
 BUDGET: AB 903 (Pringle)

Bill Status		ACR 14	SB 222	SB 523	SB 832	SB 984	SCA 4	BUDGET
Introduced		Feb 17	Feb 6	Feb 21	Feb 23	Feb 24	1994	Jan 10
Last Amended		July 11	May 16	July 28	June 27	June 12	July 17	
First House	Policy Committee	Mar 15	May 9	Apr 4	Apr 25	Apr 25	Mar 28	—
	Fiscal Committee	Apr 5	—	May 1	—	—	May 15	Mar 8
	Passed House	Apr 20	May 18	May 11	May 11	May 4	May 18	June 1
Second House	Policy Committee	June 20	June 7	July 11	June 21	June 21		—
	Fiscal Committee	[Aug 21]	—	[Aug 23]	—	—		Mar 28
	Passed House		June 22		July 6	July 7		Jun 30
Concurrence			—		July 15	July 20		Aug 2
Governor	Received	—	June 27		July 20	July 24	—	Aug 2
	Approved	—	July 5		July 30	Aug 2	—	Aug 3
Chaptered by Secretary of State	Date		July 6		July 31	Aug 3	Aug 3	
	Chapter #		63		196	300	303	

• Unless otherwise noted, all dates are in 1995

[date]: scheduled

—: not applicable

AMENDED IN ASSEMBLY JULY 17, 1995

Senate Constitutional Amendment

No. 4

Introduced by Senator Lockyer

December 6, 1994

Senate Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 16 of Article I thereof, and by amending Sections 1, 4, 5, 6, 8, 10, 11, 15, and 16 of, *and* adding and repealing Section 23 of, *and* repealing Section 5 of, Article VI thereof, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SCA 4, as amended, Lockyer. Courts: consolidation.

The California Constitution currently provides for superior and municipal courts, provides for their establishment and jurisdiction, and provides for the qualification and election of their judges.

This measure would *authorize the Legislature to eliminate the provisions for some or all municipal courts, and instead revise the provisions provide for the establishment of unified superior courts; their establishment and jurisdiction; the number of jurors required in certain civil actions; and the qualification and election of their judges. It would also revise the number of jurors required in certain civil actions.* The measure would become operative on January 1, 1998. The measure would also specify its purposes, and make related, conforming changes. The measure would also declare that its provisions are severable.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring*, That
2 the Legislature of the State of California at its 1995-96
3 Regular Session commencing on the fifth day of
4 December, 1994, two-thirds of the membership of each
5 house concurring, hereby proposes to the people of the
6 State of California that the Constitution of the State be
7 amended as follows:

8 First—That Section 16 of Article I thereof is amended
9 to read:

10 SEC. 16. Trial by jury is an inviolate right and shall be
11 secured to all, but in a civil cause three-fourths of the jury
12 may render a verdict. A jury may be waived in a criminal
13 cause by the consent of both parties expressed in open
14 court by the defendant and the defendant's counsel. In a
15 civil cause a jury may be waived by the consent of the
16 parties expressed as prescribed by statute.

17 In civil causes the jury shall consist of 12 persons or a
18 lesser number agreed on by the parties in open court. In
19 civil causes ~~other than causes within the appellate~~
20 ~~jurisdiction of the court of appeal within the appellate~~
21 *jurisdiction of the appellate division of the superior court*
22 the Legislature may provide that the jury shall consist of
23 eight persons or a lesser number agreed on by the parties
24 in open court.

25 In criminal actions in which a felony is charged, the jury
26 shall consist of 12 persons. In criminal actions in which a
27 misdemeanor is charged, the jury shall consist of 12
28 persons or a lesser number agreed on by the parties in
29 open court.

30 Second—That Section 1 of Article VI thereof is
31 amended to read:

32 SEC. 1. The judicial power of this State is vested in
33 the Supreme Court, courts of appeal, ~~and~~ superior courts,
34 ~~and municipal courts~~, all of which are courts of record.

35 Third—That Section 4 of Article VI thereof is amended
36 to read:

1 SEC. 4. In each county there is a superior court of one
2 or more judges. The Legislature shall prescribe the
3 number of judges and provide for the officers and
4 employees of each superior court. If the governing body
5 of each affected county concurs, the Legislature may
6 provide that one or more judges serve more than one
7 superior court.

8 In each superior court there is an appellate division.
9 The Chief Justice shall assign judges to the appellate
10 division for specified terms pursuant to rules, not
11 inconsistent with statute, adopted by the Judicial Council
12 to promote the independence of the appellate division.

13 ~~Fourth—That Section 5 of Article VI thereof is~~
14 ~~repealed.~~

15 *Fourth—That Section 5 of Article VI thereof is*
16 *amended to read:*

17 SEC. 5. (a) Each county shall be divided into
18 municipal court districts as provided by statute, but a city
19 may not be divided into more than one district. Each
20 municipal court shall have one or more judges. Each
21 municipal court district shall have no fewer than 40,000
22 residents; provided that each county shall have at least
23 one municipal court district. The number of residents
24 shall be determined as provided by statute.

25 (b) On the operative date of this subdivision, all
26 existing justice courts shall become municipal courts, and
27 the number, qualifications, and compensation of judges,
28 officers, attachés, and employees shall continue until
29 changed by the Legislature. Each judge of a part-time
30 municipal court is deemed to have agreed to serve full
31 time and shall be available for assignment by the Chief
32 Justice for the balance of time necessary to comprise a
33 full-time workload.

34 (c) The Legislature shall provide for the organization
35 and prescribe the jurisdiction of municipal courts. It shall
36 prescribe for each municipal court the number,
37 qualifications, and compensation of judges, officers, and
38 employees.

39 (d) Notwithstanding subdivision (a), any city in San
40 Diego County may be divided into more than one

1 municipal court district if the Legislature determines that
2 unusual geographic conditions warrant such division.

3 *(e) Notwithstanding subdivision (a), the Legislature*
4 *may provide by statute that the municipal and superior*
5 *courts within a county are unified. In those counties,*
6 *there shall be only a superior court.*

7 Fifth—That Section 6 of Article VI thereof is amended
8 to read:

9 SEC. 6. The Judicial Council consists of the Chief
10 Justice and one other judge of the Supreme Court, 3
11 judges of courts of appeal, ~~10~~ 5 judges of superior courts,
12 *5 judges of municipal courts*, 2 nonvoting court
13 administrators, and such other nonvoting members as
14 determined by the voting membership of the council,
15 each appointed by the Chief Justice for a 3-year term
16 pursuant to procedures established by the council; 4
17 members of the State Bar appointed by its governing
18 body for 3-year terms; and one member of each house of
19 the Legislature appointed as provided by the house. *If the*
20 *number of municipal courts within the State falls below*
21 *10, the memberships on the Judicial Council otherwise*
22 *designated for municipal court judges shall, for*
23 *subsequent appointments, be filled by judges of the*
24 *superior court.*

25 Council membership terminates if a member ceases to
26 hold the position that qualified the member for
27 appointment. A vacancy shall be filled by the appointing
28 power for the remainder of the term.

29 The council may appoint an Administrative Director of
30 the Courts, who serves at its pleasure and performs
31 functions delegated by the council or the Chief Justice,
32 other than adopting rules of court administration,
33 practice and procedure.

34 To improve the administration of justice the council
35 shall survey judicial business and make recommendations
36 to the courts, make recommendations annually to the
37 Governor and Legislature, adopt rules for court
38 administration, practice and procedure, and perform
39 other functions prescribed by statute. The rules adopted
40 shall not be inconsistent with statute.

1 The Chief Justice shall seek to expedite judicial business
2 and to equalize the work of judges. The Chief Justice may
3 provide for the assignment of any judge to another court
4 but only with the judge's consent if the court is of lower
5 jurisdiction. A retired judge who consents may be
6 assigned to any court.

7 Judges shall report to the council as the Chief Justice
8 directs concerning the condition of judicial business in
9 their courts. They shall cooperate with the council and
10 hold court as assigned.

11 Sixth—That Section 8 of Article VI thereof is amended
12 to read:

13 SEC. 8. (a) The Commission on Judicial
14 Performance consists of one judge of a court of appeal ~~and~~
15 ~~2 judges of superior courts, each, one judge of a superior~~
16 ~~court, and one judge of a municipal court, each~~ appointed
17 by the Supreme Court; 2 members of the State Bar of
18 California who have practiced law in this State for 10
19 years, each appointed by the governor; and 6 citizens who
20 are not judges, retired judges, or members of the State
21 Bar of California, 2 of whom shall be appointed by the
22 Governor, 2 by the Senate Committee on Rules, and 2 by
23 the Speaker of the Assembly. Except as provided in
24 subdivisions (b) and (c), all terms are for 4 years. No
25 member shall serve more than 2 4-year terms, or for more
26 than a total of 10 years if appointed to fill a vacancy. *If the*
27 *number of municipal courts within the State falls below*
28 *10, the membership on the Commission on Judicial*
29 *Performance otherwise designated for a municipal court*
30 *judge shall, for subsequent appointments, be filled by a*
31 *judge of the superior court.*

32 (b) Commission membership terminates if a member
33 ceases to hold the position that qualified the member for
34 appointment. A vacancy shall be filled by the appointing
35 power for the remainder of the term. A member whose
36 term has expired may continue to serve until the vacancy
37 has been filled by the appointing power. Appointing
38 powers may appoint members who are already serving on
39 the commission prior to March 1, 1995, to a single 2-year

1 term, but may not appoint them to an additional term
2 thereafter.

3 (c) To create staggered terms among the members of
4 the Commission on Judicial Performance, the following
5 members shall be appointed, as follows:

6 (1) Two members appointed by the Supreme Court to
7 a term commencing March 1, 1995, shall each serve a
8 term of 2 years and may be reappointed to one full term.
9 ~~The superior court judge appointed to fill the vacancy~~
10 ~~caused by the measure adopted March 26, 1996, and~~
11 ~~operative January 1, 1998 shall be appointed to an initial~~
12 ~~term equivalent to the term remaining to the municipal~~
13 ~~court judge member of the commission on December 31,~~
14 ~~1997.~~

15 (2) One attorney appointed by the Governor to a term
16 commencing March 1, 1995, shall serve a term of 2 years
17 and may be reappointed to one full term.

18 (3) One citizen member appointed by the Governor
19 to a term commencing March 1, 1995, shall serve a term
20 of 2 years and may be reappointed to one full term.

21 (4) One member appointed by the Senate Committee
22 on Rules to a term commencing March 1, 1995, shall serve
23 a term of 2 years and may be reappointed to one full term.

24 (5) One member appointed by the Speaker of the
25 Assembly to a term commencing March 1, 1995, shall
26 serve a term of 2 years and may be reappointed to one full
27 term.

28 (6) All other members shall be appointed to full 4-year
29 terms commencing March 1, 1995.

30 Seventh—That Section 10 of Article VI thereof is
31 amended to read:

32 SEC. 10. The Supreme Court, courts of appeal,
33 superior courts, and their judges have original jurisdiction
34 in habeas corpus proceedings. Those courts also have
35 original jurisdiction in proceedings for extraordinary
36 relief in the nature of mandamus, certiorari, and
37 prohibition. The appellate division of the superior court
38 has original jurisdiction in proceedings for extraordinary
39 relief in the nature of mandamus, certiorari, and

1 prohibition directed to the superior court in causes
2 subject to its appellate jurisdiction.

3 Superior courts have original jurisdiction in all other
4 causes *except those given by statute to other trial courts.*

5 The court may make such comment on the evidence
6 and the testimony and credibility of any witness as in its
7 opinion is necessary for the proper determination of the
8 cause.

9 Eighth—That Section 11 of Article VI thereof is
10 amended to read:

11 SEC. 11. (a) The Supreme Court has appellate
12 jurisdiction when judgment of death has been
13 pronounced. With that exception courts of appeal have
14 appellate jurisdiction when superior courts have original
15 jurisdiction in causes of a type within the appellate
16 jurisdiction of the courts of appeal on June 30, 1995, and
17 in other causes prescribed by statute. When appellate
18 jurisdiction in civil causes is determined by the amount
19 in controversy, the Legislature may change the appellate
20 jurisdiction of the courts of appeal by changing the
21 jurisdictional amount in controversy.

22 (b) Except as provided in subdivision (a), the
23 appellate division of the superior court has appellate
24 jurisdiction in causes prescribed by statute.

25 (c) The Legislature may permit courts exercising
26 appellate jurisdiction to take evidence and make findings
27 of fact when jury trial is waived or not a matter of right.

28 ~~Ninth—That Section 15 of Article VI thereof is~~
29 ~~amended to read:~~

30 ~~SEC. 15. A person is ineligible to be a judge of a court~~
31 ~~of record unless for 10 years immediately preceding~~
32 ~~selection the person has been a member of the State Bar~~
33 ~~or served as a judge of a court of record in this state.~~

34 ~~Tenth—That~~

35 ~~Ninth—That~~ Section 16 of Article VI thereof is
36 amended to read:

37 SEC. 16. (a) Judges of the Supreme Court shall be
38 elected at large and judges of courts of appeal shall be
39 elected in their districts at general elections at the same
40 time and places as the Governor. Their terms are 12 years

1 beginning the Monday after January 1 following their
2 election, except that a judge elected to an unexpired term
3 serves the remainder of the term. In creating a new court
4 of appeal district or division the Legislature shall provide
5 that the first elective terms are 4, 8, and 12 years.

6 ~~(b) Judges of superior courts shall be elected in their~~
7 ~~counties at general elections except as otherwise~~
8 ~~necessary to meet the requirements of federal law, in~~
9 ~~which case the Legislature, by two-thirds vote of the~~
10 ~~membership of each house thereof, with the advice of~~
11 ~~judges within the affected court, may provide for their~~
12 ~~election in electoral subdivisions of the affected court at~~
13 ~~general elections, by the system prescribed in subdivision~~
14 ~~(d), or by any other arrangement. The Legislature may~~
15 ~~provide that an unopposed incumbent's name not appear~~
16 ~~on the ballot.~~

17 *(b) (1) In counties in which there is no municipal*
18 *court, judges of superior courts shall be elected in their*
19 *counties at general elections except as otherwise*
20 *necessary to meet the requirements of federal law. In the*
21 *latter case the Legislature, by two-thirds vote of the*
22 *membership of each house thereof, with the advice of*
23 *judges within the affected court, may provide for their*
24 *election by the system prescribed in subdivision (d), or*
25 *by any other arrangement. The Legislature may provide*
26 *that an unopposed incumbent's name not appear on the*
27 *ballot.*

28 *(2) In counties in which there is one or more*
29 *municipal court districts, judges of superior and*
30 *municipal courts shall be elected in their counties or*
31 *districts at general elections. The Legislature may*
32 *provide that an unopposed incumbent's name not appear*
33 *on the ballot.*

34 (c) Terms of judges of superior courts are 6 years
35 beginning the Monday after January 1 following their
36 election. A vacancy shall be filled by election to a full term
37 at the next general election after the second January 1
38 following the vacancy, but the Governor shall appoint a
39 person to fill the vacancy temporarily until the elected
40 judge's term begins.

1 (d) Within 30 days before August 16 preceding the
2 expiration of the judge's term, a judge of the Supreme
3 Court or a court of appeal may file a declaration of
4 candidacy to succeed to the office presently held by the
5 judge. If the declaration is not filed, the Governor before
6 September 16 shall nominate a candidate. At the next
7 general election, only the candidate so declared or
8 nominated may appear on the ballot, which shall present
9 the question whether the candidate shall be elected. The
10 candidate shall be elected upon receiving a majority of
11 the votes on the question. A candidate not elected may
12 not be appointed to that court but later may be
13 nominated and elected.

14 The Governor shall fill vacancies in those courts by
15 appointment. An appointee holds office until the Monday
16 after January 1 following the first general election at
17 which the appointee had the right to become a candidate
18 or until an elected judge qualifies. A nomination or
19 appointment by the Governor is effective when
20 confirmed by the Commission on Judicial Appointments.

21 Electors of a county, by majority of those voting and in
22 a manner the Legislature shall provide, may make this
23 system of selection applicable to judges of superior courts.

24 ~~Eleventh—That~~

25 ~~Tenth—That~~ Section 23 is added to Article VI thereof,
26 to read:

27 SEC. 23. (a) The purpose of the ~~repeal of Section 5,~~
28 ~~and the amendments to Sections 1, 4, 5, 6, 8, 10, 11, 15, and~~
29 ~~16, of this article, and the amendments to Section 16 of~~
30 ~~Article I, approved at the March 26, 1996, general election~~
31 ~~is to permit the Legislature to abolish the municipal~~
32 ~~courts and unify their operations within the superior~~
33 ~~courts. Notwithstanding Section 8 of Article IV, the~~
34 ~~implementation of, and orderly transition under, the~~
35 ~~provisions of the measure adding this section may include~~
36 ~~urgency statutes that create or abolish offices or change~~
37 ~~the salaries, terms, or duties of offices, or grant franchises~~
38 ~~or special privileges, or create vested rights or interests,~~
39 ~~where otherwise permitted under this Constitution.~~

1 ~~(b) On January 1, 1998, the judgeships in each~~
2 ~~municipal court in a county are abolished and the~~
3 ~~previously selected municipal court judges shall become~~

4 *(b) When the superior and municipal courts within a*
5 *county are unified, the judgeships in each municipal*
6 *court in that county are abolished and the previously*
7 *selected municipal court judges shall become judges of*
8 *the superior court in that county. The term of office of a*
9 *previously selected municipal court judge is not affected*
10 *by taking office as a judge of the superior court. The*
11 *10-year membership or service requirement of Section 15*
12 *does not apply to a previously selected municipal court*
13 *judge. Pursuant to Section 6, the Judicial Council may*
14 *prescribe appropriate education and training for judges*
15 *with regard to trial court unification.*

16 ~~(c) Subject to contrary action pursuant to statute, on~~
17 ~~January 1, 1998, in each preexisting superior and~~
18 ~~municipal:~~

19 *(c) Except as provided by statute to the contrary, in*
20 *any county in which the superior and municipal courts*
21 *become unified, the following shall occur automatically in*
22 *each preexisting superior and municipal court:*

23 *(1) Previously selected officers, employees, and other*
24 *personnel who serve the court become the officers and*
25 *employees of the superior court.*

26 *(2) Preexisting court locations are retained as superior*
27 *court locations.*

28 *(3) Preexisting court records become records of the*
29 *superior court.*

30 *(4) Pending actions, trials, proceedings, and other*
31 *business of the court become pending in the superior*
32 *court under the procedures previously applicable to the*
33 *matters in the court in which the matters were pending.*

34 *(5) Matters of a type previously within the appellate*
35 *jurisdiction of the superior court remain within the*
36 *jurisdiction of the appellate division of the superior court.*

37 *(6) Matters of a type previously subject to rehearing*
38 *by a superior court judge remain subject to rehearing by*
39 *a superior court judge, other than the judge who*
40 *originally heard the matter.*

1 (7) Penal Code procedures that necessitate superior
2 court review of, or action based on, a ruling or order by
3 a municipal court judge shall be performed by a superior
4 court judge other than the judge who originally made the
5 ruling or order.

6 (d) This section shall be operative until January 1,
7 2003, and as of that date is repealed.

8 ~~Twelfth—That~~

9 ~~Eleventh—That~~ Sections 1 to ~~10~~ 9, inclusive, of this
10 measure shall become operative on January 1, 1998.

11 ~~Thirteenth—That~~

12 ~~Twelfth—That~~ if any provision of this measure or its
13 application to any person or circumstance is held invalid,
14 the invalidity does not affect other provisions or
15 applications of this measure that can be given effect
16 without the invalid provision or application, and to this
17 end the provisions of this measure are severable.

AMENDED IN ASSEMBLY JULY 19, 1995

AMENDED IN ASSEMBLY JUNE 30, 1995

AMENDED IN SENATE APRIL 20, 1995

SENATE BILL

No. 162

Introduced by Senator Lockyer

January 30, 1995

An act to add Section 68083 to the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 162, as amended, Lockyer. Courts: municipal and superior court judges.

Existing law specifies the number of municipal and superior court judgeships for each county.

This bill would authorize the Governor, upon the occurrence of a vacancy in a municipal court judgeship, to reduce the number of municipal court judgeships and increase the number of superior court judgeships by one, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 68083 is added to the
- 2 Government Code, to read:
- 3 68083. (a) Upon the occurrence of a vacancy in a
- 4 municipal court judgeship, other than the sole remaining

1 municipal court judgeship for the county, if the Governor
2 finds there are sufficient funds for the conversion of a
3 municipal court judgeship into a superior court judgeship
4 and finds that the administration of justice would be
5 advanced by such a conversion, the number of municipal
6 court judges for the county shall then be reduced by one
7 and the number of superior court judges for the county
8 shall be increased by one. Prior to making a
9 determination, the Governor shall consider the following
10 factors:

11 (1) The geographic separation of the two courts.

12 (2) The fiscal impact of the conversion.

13 (3) The existence of a coordination plan approved
14 pursuant to Section 68112 of the Government Code that
15 permits blanket cross-assignment of superior court judges
16 and municipal court judges to assist in the timely
17 processing of cases before all of the courts in the county.

18 (b) *A superior court vacancy created pursuant to*
19 *subdivision (a) may not be filled by a former municipal*
20 *court judge who retired or resigned from office until at*
21 *least three years have elapsed since his or her resignation*
22 *or retirement.*

23 (c) The Governor's finding shall become effective
24 when received by the Secretary of State.

25 ~~(e)~~

26 (d) When a finding by the Governor that a position
27 should be reallocated takes effect, the Judicial Council
28 shall reallocate to the superior court the funding in
29 support of the municipal court salary and the chamber
30 staff positions as well as any other required funding.

AMENDED IN SENATE JULY 11, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

Assembly Concurrent Resolution

No. 14

Introduced by Assembly Member Rainey

February 17, 1995

**Assembly Concurrent Resolution No. 14—Relative to the
California Law Revision Commission.**

LEGISLATIVE COUNSEL'S DIGEST

ACR 14, as amended, Rainey. California Law Revision Commission.

Existing law requires the California Law Revision Commission to file a report at each Regular Session of the Legislature containing a calendar of topics selected by it for study, including a list of studies in progress and a list of topics intended for future consideration, and, after the filing of the commission's first report, its studies are confined to topics set forth in the calendar contained in its last preceding report that are thereafter approved for its study, or referred to it for study, by concurrent resolution of the Legislature.

This measure would give legislative approval to the commission to continue its study of numerous, specified topics that the Legislature has previously authorized or directed the commission to study.

Fiscal committee: yes.

- 1 WHEREAS, The California Law Revision Commission
- 2 is authorized to study only topics set forth in the calendar

1 contained in its report to the Governor and the
2 Legislature that are thereafter approved for study by
3 concurrent resolution of the Legislature, and topics that
4 have been referred to the commission for study by
5 concurrent resolution of the Legislature; and

6 WHEREAS, The commission, in its annual report
7 covering its activities for 1994, lists 24 topics, all of which
8 the Legislature has previously authorized or directed the
9 commission to study; now, therefore, be it

10 *Resolved by the Assembly of the State of California, the*
11 *Senate thereof concurring,* That the Legislature approves
12 for continued study by the California Law Revision
13 Commission the topics listed below, all of which the
14 Legislature has previously authorized or directed the
15 commission to study:

16 (1) Whether the law relating to creditors' remedies
17 (including, but not limited to, attachment, garnishment,
18 execution, repossession of property (including the claim
19 and delivery statute, self-help repossession of property,
20 and the Commercial Code repossession of property
21 provisions), civil arrest, confession of judgment
22 procedures, default judgment procedures, enforcement
23 of judgments, the right of redemption, procedures under
24 private power of sale in a trust deed or mortgage,
25 possessory and nonpossessory liens, and related matters)
26 should be revised.

27 (2) Whether the California Probate Code should be
28 revised, including, but not limited to, whether California
29 should adopt, in whole or in part, the Uniform Probate
30 Code.

31 (3) Whether the law relating to real and personal
32 property (including, but not limited to, a Marketable
33 Title Act, covenants, servitudes, conditions, and
34 restrictions on land use or relating to land, possibilities of
35 reverter, powers of termination, Section 1464 of the Civil
36 Code, escheat of property and the disposition of
37 unclaimed or abandoned property, eminent domain,
38 quiet title actions, abandonment or vacation of public
39 streets and highways, partition, rights and duties
40 attendant upon assignment, subletting, termination, or

1 abandonment of a lease, powers of appointment, and
2 related matters) should be revised.

3 (4) Whether the law relating to family law (including,
4 but not limited to, community property) should be
5 revised.

6 (5) Whether the law relating to the award of
7 prejudgment interest in civil actions and related matters
8 should be revised.

9 (6) Whether the law relating to class actions should be
10 revised.

11 (7) Whether the law relating to offers of compromise
12 should be revised.

13 (8) Whether the law relating to discovery in civil cases
14 should be revised.

15 (9) Whether a summary procedure should be
16 provided by which property owners can remove doubtful
17 or invalid liens from their property, including a provision
18 for payment of attorneys' fees to the prevailing party.

19 (10) Whether acts governing special assessments for
20 public improvements should be simplified and unified.

21 (11) Whether the law on injunctions and related
22 matters should be revised.

23 (12) Whether the law relating to the rights and
24 disabilities of minor and incompetent persons should be
25 revised.

26 (13) Whether the law relating to custody of children,
27 adoption, guardianship, freedom from parental custody
28 and control, and related matters should be revised.

29 (14) Whether the Evidence Code should be revised.

30 (15) Whether the law relating to arbitration should be
31 revised.

32 (16) Whether the decisional, statutory, and
33 constitutional rules governing the liability of public
34 entities for inverse condemnation should be revised
35 (including, but not limited to, liability for damages
36 resulting from flood control projects) and whether the
37 law relating to the liability of private persons under
38 similar circumstances should be revised.

39 (17) Whether there should be changes to
40 administrative law.

1 (18) Whether the law relating to the payment and the
2 shifting of attorneys' fees between litigants should be
3 revised.

4 (19) Whether the law relating to the adjudication of
5 child and family civil proceedings should be revised.

6 (20) Whether the Uniform Unincorporated Nonprofit
7 Association Act, or parts of the Uniform Act, and related
8 matters should be adopted in California.

9 (21) Whether the law governing unfair competition
10 litigation under Chapter 5 (commencing with Section
11 17200) of Part 2 of Division 7 of the Business and
12 Professions Code should be revised to clarify the scope of
13 the chapter and to resolve procedural problems in
14 litigation under the chapter, including the res judicata
15 and collateral estoppel effect on the public of a judgment
16 between the parties to the litigation, and related matters.

17 (22) Whether the requirement of paragraph (2) of
18 subdivision (b) of Section 800 of the Corporations Code
19 that the plaintiff in a shareholder's derivative action must
20 allege the plaintiff's efforts to secure board action or the
21 reasons for not making the effort, and the standard under
22 Section 309 of the Corporations Code for protection of a
23 director from liability for a good faith business judgment,
24 and related matters, should be revised.

25 ~~(23) The proposed amendment to the Constitution as~~
26 ~~contained in SCA 3 (Lockyer) of the 1993/94 Regular~~
27 ~~Session, pertaining to the unification of the trial courts,~~
28 ~~with recommendations forwarded to the Legislature on~~
29 ~~February 1, 1994, pertaining to the appropriate~~
30 ~~composition of the amendment, and further~~
31 ~~recommendations~~

32 (23) *Recommendations* to be reported pertaining to
33 statutory changes that may be necessitated by court
34 unification.

35 (24) Whether Section 351 of the Code of Civil
36 Procedure, relating to tolling statutes of limitations while
37 the defendant is out of state, and related matters should
38 be revised; and be it further

- 1 *Resolved*, That the Chief Clerk of the Assembly
- 2 transmit a copy of this resolution to the California Law
- 3 Revision Commission.