

Leg. Prog.

October 24, 1996

Memorandum 96-72

1997 Legislative Program

This memorandum reviews the matters the staff anticipates will be included in the Commission's 1997 legislative program. As the Commission finalizes work on each item, the staff will forward the draft to Legislative Counsel to prepare in bill form for introduction.

The 1997-98 regular session convenes December 2, 1996. Some of the bills may be ready for introduction at that time, if we have settled upon authors for them. The Commission's policy on authorship is stated in its Handbook of Practices and Procedures:

3.1. Introduction of Bills

Commission bills may be introduced by one of the legislative members of the Commission. The Commission encourages other members of the Legislature to be authors or coauthors of Commission bills. In this case, the other legislators are selected by the Executive Secretary after consulting with the legislative members of the Commission or appropriate legislative staff members. Ordinarily, Commission bills will be introduced in the form in which they are published by the Commission and later amended to reflect changes that the Commission believes are desirable.

Tolling statute of limitation when defendant out of state. The Commission has proposed repeal of Code of Civil Procedure Section 351 (tolling statute of limitations when defendant is out of state). This measure was included in Senator Kopp's 1996 omnibus civil practice bill but was removed when opposition surfaced from the Consumer Attorneys of California. The Commission has decided to resubmit this proposal in 1997, starting on the Assembly side. The staff has sent the text to Legislative Counsel.

Real property covenants. The Commission has two real property covenant proposals for 1997. One would repeal the First Rule in Spencer's Case (Civil Code § 1464) and the other would apply the Marketable Record Title Act to obsolete

land use restrictions. Senator Calderon's office last year expressed an interest in these measures as a possible combined package. The staff has sent their combined text to Legislative Counsel.

Administrative adjudication by quasi-public entities. The Commission has completed its work on administrative adjudication by quasi-public entities. The staff has sent the text to Legislative Counsel.

Ethical standards for administrative law judges. The Commission has completed work on ethical standards for administrative law judges. However, in response to a request of administrative law judges in the Unemployment Insurance Appeals Board, the Commission has agreed to give further consideration to the question of their political activities. This matter is scheduled for consideration at the Commission's November meeting. See Memorandum 96-78.

Best evidence rule. With one exception, the Commission has completed its review of this proposal to replace the best evidence rule with the secondary evidence rule. The Commission has not yet resolved the issue whether the proposal ought to extend to criminal cases. This matter is scheduled for consideration at the Commission's November meeting. See Memorandum 96-60 and its supplements.

Unfair competition. The Commission is in the process of finalizing its recommendation on unfair competition litigation. The matter is scheduled for consideration at the Commission's November meeting. See Memorandum 96-74. This project will require a major legislative effort.

Judicial review of agency action. The Commission is in the process of finalizing its recommendation on judicial review of agency action. The matter is scheduled for consideration at the Commission's November meeting. See Memorandum 96-76 and Memorandum 96-77. This project will require a major legislative effort.

Mediation confidentiality. The Commission is about to commence review of comments on the tentative recommendation on mediation confidentiality. See Memorandum 96-75, scheduled for consideration at the November meeting. Work on this matter should be complete in time for 1997 introduction.

Attachment by undersecured creditors. The Senate Judiciary Committee has requested the Commission's policy recommendations on the question of attachment by an undersecured creditor. See Memorandum 96-71, scheduled for consideration at the November meeting. This is a relatively minor issue, and the

Commission should be in a position to report back to the Legislature for the 1997 session. We have previously developed drafts for any likely revisions.

Respectfully submitted,

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Executive Secretary