

Leg. Prog.

May 29, 1997

Memorandum 97-35

1997 Legislative Program

Attached to this memorandum is a chart showing the status of items in the Commission's 1997 legislative program.

This memorandum supplements the chart as to a few items.

AB 707 (Ackerman) — real property covenants. AB 707 is now a two-year bill. It failed passage on its initial vote in the Assembly Judiciary Committee by two votes (the bill received seven votes; nine are required for passage). The problem was a late-arriving letter from the Planning and Conservation League opposed to the portion of the bill providing a 60-year expiration period for land use restrictions due to possible "unintended consequences". PCL suggested the bill might be made prospective only.

Although we made an effort to work with the PCL representative (e.g., find out what particular types of restrictions cause concern and address them), the representative was generally unavailable. We obtained reconsideration of the bill by the Committee, and will try again to work with PCL over the interim so that the bill will be in shape to receive a favorable vote in January.

AB 939 (Ortiz/Ackerman) — mediation confidentiality. AB 939 is pending in the Senate Judiciary Committee. The Commission has approved amendments to address a number of issues that were raised concerning the bill, and further amendments may be necessary. The Chief Counsel for the Senate Judiciary Committee plans to schedule a meeting to address concerns about the bill; participants would include committee staff, Law Revision Commission staff, a representative of Consumer Attorneys of California, and others. We will report to the Commission on the results of the meeting.

SB 143 (Kopp) — unfair competition litigation. For further information on SB 143, please refer to Memorandum 97-44.

SB 177 (Kopp) — Best Evidence Rule. SB 177 is pending in Senate Judiciary Committee, but we have requested that the hearing be delayed until January. The

bill is opposed by the Attorney General; the California Attorneys for Criminal Justice have asked for more time to study it; and at least three State Bar committees are unhappy with it. There is no organized support for the bill. Although we got a favorable vote in the Criminal Procedure Committee, the attorneys in both the civil and criminal fields are concerned.

After discussing the situation with Judiciary Committee staff and Criminal Procedure Committee staff, we have concluded the bill has a greater likelihood of success if we do not rush it but give the various attorney groups an opportunity to study and get comfortable with the concept of abandoning the Best Evidence Rule. We will be able to address any specific concerns they may have before the bill is heard in the Judiciary Committee in January.

SB 209/261 (Kopp) — judicial review of agency action. For further information on SB 209, please refer to Memorandum 97-42.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

STATUS OF 1997 COMMISSION LEGISLATIVE PROGRAM

(as of May 27, 1997)

AB 707 (Ackerman): Real Property Covenants (includes First Rule in Spencer's Case and Obsolete Restrictions)

AB 939 (Ortiz/Ackerman): Mediation Confidentiality

AB 1258 (Ackerman): Attachment by Undersecured Creditors

SB 68 (Kopp): Quasi-Public Entity Hearings

SB 143 (Kopp): Unfair Competition Litigation

SB 177 (Kopp): Best Evidence Rule

SB 209, 261 (Kopp): Judicial Review of Agency Action

SB 653 (Calderon): ALJ Code of Ethics

SCR 3 (Kopp): Continuing Authority to Study Topics

Bill Status		AB 707	AB 939	AB 1258	SB 68	SB 143	SB 177	SB 209, 261	SB 653	SCR 3
Introduced		Feb 26	Feb 27	Feb 28	12/11/96	Jan 13	Jan 22	Jan 29	Feb 25	12/11/96
Last Amended		May 1	Apr 9	Apr 17	Apr 15	Apr 2	May 15	Apr 16		
First House	Policy Committee	2-Year Bill	Apr 16	May 7	Apr 8	2-Year Bill	2-Year Bill	2-Year Bill	Apr 8	Feb 18
	Fiscal Committee	—	—	—	—	—	—		—	Mar 17
	Passed House		Apr 24	May 19	Apr 21				Apr 17	Apr 3
Second House	Policy Committee									
	Fiscal Committee	—	—	—	—	—	—		—	
	Passed House									
Concurrence										
Governor	Received									—
	Approved									—
Chaptered by Secretary of State	Date									
	Chapter #									

• Unless otherwise noted, all dates are in 1997

[date]: scheduled

—: not applicable