

Legis. Prog.

February 1, 2002

Memorandum 2002-11**2002 Legislative Program**

We are well along in the process of placing our legislative proposals for the 2002 session. The Commission's current recommendations, as well as recommendations the Commission plans to finalize in February and March, are listed below, along with their status. Other legislative matters of direct interest to the Commission are also noted.

We will update this memorandum at the meeting with any further information we have at that time.

COMMISSION RECOMMENDATIONS**Resolution of Authority**

The annual Commission resolution would continue existing study authority and redirect the criminal sentencing project to one of clarification and simplification of sentencing enhancements, rather than statutory reorganization. Assembly Member Wayne has introduced this measure. See ACR 123.

Cases in Which Court Reporter Is Required

This recommendation would consolidate the rules governing when a court reporter must be provided in civil and criminal cases. This measure has not yet been introduced as a free-standing bill, although it is currently duplicated in our trial court restructuring material.

Debtor-Creditor Law Technical Revisions

This recommendation addresses a number of procedural issues in statutes relating to claim and delivery, attachment, and enforcement of judgments. Senator Ackerman has introduced this measure. See SB 1322.

Impeachment of Valuation Witness in Eminent Domain

This recommendation would revise eminent domain trial procedure to permit impeachment of a valuation expert who testifies to a valuation at trial that differs

from the valuation prepared by the same expert for prejudgment deposit purposes. Assembly Member Papan has introduced this measure. See AB 1770.

Municipal Bankruptcy

This recommendation would update statutes authorizing public entities to file for bankruptcy protection under the federal Bankruptcy Code. Senator Ackerman has introduced this measure. See SB 1323.

Rules of Construction for Trusts and Other Instruments

This recommendation would fine tune the rules governing construction of wills, trusts, and other instruments. Assembly Member Harman has introduced this measure. See AB 1784.

RECOMMENDATIONS LIKELY TO BE FINALIZED

Administrative Procedure

The Commission plans to finalize a recommendation on administrative rulemaking refinements at the February meeting. Assembly Member Wayne has introduced a bill based on the tentative recommendation, which can receive the text of the Commission's final recommendation on the matter. See AB 1857.

Electronic Communications and Evidentiary Privileges

The Commission plans to finalize a recommendation on improvement of the Evidence Code evidentiary privileges to accommodate electronic communications at the January meeting. We have submitted a bill draft to Legislative Counsel based on the tentative recommendation.

Mechanics Lien Law

The Commission plans to finalize a recommendation on the double payment issue at the January meeting. Depending on the recommendation, we will seek appropriate authorship. There are currently a number of legislative vehicles that could be available. We have also submitted bill drafts to Legislative Counsel based on the December discussion draft.

Trial Court Restructuring

The recommendation to repeal provisions made obsolete by trial court structuring will require two separate vehicles. The constitutional amendment

portion has been introduced by Assembly Member Wayne. See ACA 15. The statutory revision portion has been introduced by the Senate Judiciary Committee. See SB 1316.

It is our current plan to hold these two pieces of legislation in committee until the Commission finalizes its recommendation in March. At that time we would amend in whatever revisions the Commission determines are appropriate, and set the measures for hearing. Meanwhile, they are in print and available for review by the public.

ALSO OF INTEREST

Protection of Personal Information

ACR 125 (Papan) would direct the Commission to study, report on, and prepare recommended legislation concerning the protection of personal information relating to or arising out of financial transactions.

Budget Bill

The Governor's Budget would impose a 15% reduction of the Commission's budget for 2002-03, on top of the 5% reduction previously imposed for the current fiscal year. The budget has been introduced as AB 1777 (Cardenas) and SB 1261 (Peace).

Respectfully submitted,

Nathaniel Sterling
Executive Secretary