

Memorandum 2006-37

2006 Legislative Program: Final Report

Attached to this memorandum is a chart showing final action on the Commission's 2006 legislative program. This memorandum supplements the information provided in the chart. This memorandum is for information only. No Commission action is required.

FINAL ACTION ON COMMISSION BILLS

AB 770 (Mullin) — Common Interest Development Ombudsperson

AB 770 would implement the Commission recommendation on *Common Interest Development Ombudsperson*, 35 Cal. L. Revision Comm'n Reports 123 (2005). It was approved by the Legislature on August 29, 2006, but vetoed by the Governor on September 22, 2006.

The Governor's veto message to the Assembly explains:

I am returning Assembly Bill 770 without my signature.

This bill is unnecessary at this time. Recent legislation has been enacted to address various problems cited by the author in proposing this bill, including directives to the Department of Consumer Affairs and the Department of Real Estate to develop an on-line education resource for common interest development board members, as well as a requirement that associations provide dispute resolution procedures. It is necessary to gauge the effectiveness of this recently enacted legislation before creating an entirely new state office.

Additionally, this bill provides no clarification on the type of dispute resolution services that will be provided by the proposed Ombudsperson, and does not specify the difference between informal dispute resolution required by this bill and formal mediation, which the Ombudsperson would not provide.

For these reasons, I am returning this bill without my signature.

AB 1302 (J. Horton) — Emergency Rulemaking

AB 1302 implements the Commission's recommendation on *Emergency Rulemaking Under the Administrative Procedure Act*, 34 Cal. L. Revision Comm'n Reports 221 (2004). It was approved by the Legislature on August 31, 2006, and signed by the Governor on September 29, 2006.

ALSO OF INTEREST

A number of bills and resolutions were introduced in 2005 and 2006 to assign new studies to the Commission. Two of those measures were enacted into law. A third was approved by the Legislature, but vetoed by the Governor. Those three measures are summarized below.

ACR 73 (McCarthy) — Nonsubstantive Reorganization of Weapon Statutes

Pursuant to ACR 73 (McCarthy), enacted as Resolution Chapter 128 of the Statutes of 2006, the Commission shall study, report on, and prepare recommended legislation to simplify and reorganize the portions of the Penal Code that relate to the control of deadly weapons, without making any substantive change to the scope of criminal liability under those provisions. The Commission's report on the matter is due by July 1, 2009.

AB 2034 (Spitzer) — CLRC Study of Donative Transfer Restrictions

Pursuant to AB 2034 (Spitzer), enacted as Chapter 216 of the Statutes of 2006, the Commission shall study the operation and effectiveness of the provisions of the Probate Code that restrict donative transfers to certain classes of individuals, and shall recommend revisions and improvements to those provisions. The Commission's report on the matter is due by January 1, 2009.

SB 1311 (Soto) – CLRC Study of Settlement, Waiver, or Release of Liability

SB 1311 (Soto) would have authorized and requested the Commission to study and report to the Legislature on possible statutory protections that can be enacted to prevent a settlement, waiver, or liability release that is not knowingly and intelligently made by an unrepresented tort victim because of miscommunication or misinterpretation where the negotiations were conducted in whole or in part in a language in which the victim was not proficient. The bill did not impose a deadline for the Commission's report.

The bill was approved by the Legislature on August 29, 2006, but was vetoed by the Governor on September 28, 2006. The Governor's veto message to the Senate explains:

I am returning Senate Bill 1311 without my signature.

This bill provides legislative intent that would direct the California Law Revision Commission to conduct a study relating to settlement, waiver, or liability release. While this appears to be consistent with the purpose of the Commission, in this case the use of a statutory measure to direct the Commission, rather than a concurrent resolution, is inappropriate because this bill lacks any procedural provisions.

For this reason, I am unable to sign this measure.

Respectfully submitted,

Brian Hebert
Assistant Executive Secretary

Status of 2006 Commission Legislative Program

As of October 2, 2006

		AB 69	AB 770	AB 1133	AB 1302	AB 2126	SB 551	SCR 15				
		Introduced	1/3/05	2/18/05	2/22/05	2/22/05	Feb 21	2/18/05	2/9/05			
		Last Amended	3/1/05	Aug 7	4/14/05	Jun 27	Apr 20	Jun 19	6/20/05			
First House	Policy Committee	2/22/05	Jan 12	4/12/05	May 3	Apr 4	Jan 9	6/21/05				
	Fiscal Committee	—	Jan 18	—	Jan 19	Apr 26	Jan 17	7/12/05				
	Passed House	3/7/05	Jan 30	4/21/05	Jan 26	May 4	Jan 30	8/22/05				
Second House	Policy Committee	Dead	Jun 12	Dead	Jun 20	Jun 13	Dead	8/25/05				
	Fiscal Committee		Aug 17		Aug 7	Jun 26		Jan 18				
	Passed House		Aug 28		Aug 28	Jun 29		Jan 26				
Concurrence			Aug 29		Aug 31	—		—				
Governor	Received Approved		Sep 13		Sep 19	Jul 10		—				
			Veto		Sep 29	Jul 20		—				
Secretary of State	Date Chapter #				Sep 29	Jul 21		Jan 31				
					713	86		Res 1				

Bill List: AB 69 (Harman): Ownership of Amounts Withdrawn from Joint Account
 AB 770 (Mullin): CID Ombudsperson
 AB 1133 (Harman): Waiver of Privilege By Disclosure
 AB 1302 (Horton): Emergency Rulemaking
 AB 2126 (Lieu and Leno): Enforcement of Judgments Under the Family Code

 SB 551 (Lowenthal): CID Ombudsperson
 SCR 15 (Morrow, Dunn, and Escutia): CLRC Studies

Also of Interest:

ACR 73 (McCarthy): CLRC Study of Firearms Statutes (2006 Cal. Stat. res. ch. 128)
 AB 2034 (Spitzer): CLRC Study of Donative Transfer Restrictions (2006 Cal. Stat. ch. 216)

KEY

Italics: Future or speculative

"—": Not applicable

*: Double referral, not fiscal

[date]: Deadline