

## Memorandum 2014-30

**2014 Legislative Program (Status Report)**

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The attached table summarizes the status of the Commission's<sup>1</sup> 2014 legislative program. As indicated, two Commission-recommended bills are still awaiting action by the Governor. They are:

- AB 2747 (Committee on Judiciary), implementing the Commission's recommendation on *Technical and Minor Substantive Statutory Corrections*.<sup>2</sup>
- SB 940 (Jackson), implementing the Commission's recommendation on the *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act*.<sup>3</sup>

The staff will provide any further information on those bills orally, at the upcoming meeting.

This memorandum also reports on a just-enacted bill that assigns the Commission a new study.

**SB 406 (Evans). Tribal Court Civil Money Judgment Act**

Senate Bill 406 (Evans)<sup>4</sup> addresses the enforcement of tribal court civil money judgments in California state courts.

SB 406 builds on California's enactment of the Uniform Foreign-Country Money Judgments Recognition Act ("UFCMJRA"),<sup>5</sup> which provides substantive standards for the enforcement or nonenforcement of foreign and tribal money judgments. SB 406 preserves those substantive standards, but creates a new *procedure* for the enforcement of a tribal judgment. As Senator Evans explains:

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. 43 Cal. L. Revision Comm'n Reports 35 (2013).

3. 43 Cal. L. Revision Comm'n Reports 93 (2013).

4. 2014 Cal. Stat. ch. 243.

5. Code Civ. Proc. § 1713 *et seq.*

This bill proposes to establish the Tribal Court Civil Money Judgment Act, a new legal framework for seeking enforcement of tribal court money judgments under procedures that are modeled upon the simpler procedures applicable to judgments from the courts of other states, while still applying the principles of comity currently required for judgments from sovereign nations. The framework would not alter the legal standards that state courts apply in recognizing and enforcing tribal court money judgments, but merely clarify and consolidate the procedures for doing so into a uniform and streamlined statutory scheme.<sup>6</sup>

In response to concerns about the bill, including concerns about the existing substantive standards for enforcement or nonenforcement of tribal civil money judgments, the staff of the Assembly Committee on Judiciary raised the possibility of adding a three-year sunset provision to the bill and requiring a Commission study of the substantive standards:

The bill has raised concerns by both a tribe, on the one hand, who believes that the bill questions tribal sovereignty and the legitimacy of tribal courts, and will slow the process down, and several opponents, who believe that the bill fails to require sufficient due process of law in the underlying tribal court proceedings before the resulting judgments can be enforced in California courts. Given the concerns raised on all sides, the Committee may want to consider passing the measure, but requiring that the California Law Revision Commission (CLRC) look at the due process requirements of both this bill and the UFCMJRA, using existing resources, and sunset the bill in three years, after the study is complete, to allow the Legislature, with a thoughtful and thorough review by the CLRC, to more thoroughly and knowledgably consider the concerns that have been raised on all sides.<sup>7</sup>

In response to that proposal, the bill was amended to add a three-year sunset and the following uncodified provision:

SECTION 1. The California Law Revision Commission shall, within existing resources, conduct a study of the standards for recognition of a tribal court or a foreign court judgment, under the Tribal Court Civil Money Judgment Act (Title 11.5 (commencing with Section 1730) of Part 3 of the Code of Civil Procedure) and the Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3 of the Code of Civil Procedure). On or before January 1, 2017, the California Law Revision Commission shall report its findings,

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6. Assembly Committee on Judiciary Analysis of SB 406 (June 17, 2014), p. 5.

7. Assembly Committee on Judiciary Analysis of SB 406 (June 17, 2014), pp. 1-2.

along with any recommendations for improvement of those standards, to the Legislature and the Governor.

The bill was enacted in that form.

Although the Commission will not be reviewing its 2015 work priorities until its October or December meeting, a direct legislative assignment with a fixed deadline is always going to be one of the Commission's highest priorities. For that reason, the staff would like to begin work on this new study right away.

That would be legally permissible, because we do not need to wait for SB 406 to operate in order to have the authority needed to begin work. The Commission's resolution of authority already includes express authority to study "enforcement of judgments."<sup>8</sup>

Moreover, the new study would fit nicely into our current staffing arrangements. Staff Counsel Kristin Burford would be a good candidate to handle this new project, and her current studies are winding down.

**May the staff begin work on this project now, subject to reconsideration of priorities when the Commission considers the *New Topics and Priorities* memorandum at the Commission's October or December 2014 meeting?**

Respectfully submitted,

Brian Hebert  
Executive Director

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8. See SCR 83 (Monning); 2014 Cal. Stat. res. ch. 63.

# Status of 2014 Commission Legislative Program

As of August 28, 2014

		AB 1798	AB 2747		SB 940	SCR 83					
<b>Introduced</b>		2/18/14	3/4/14		2/4/14	2/20/14					
<b>Last Amended</b>			7/1/14		6/4/14						
<b>First House</b>	Policy Committee	4/22/14	5/1/14		4/1/14	4/1/14					
	Second Committee	—	5/21/14		4/28/14	—					
	Passed House	4/28/14	5/23/14		5/8/14	4/7/14					
<b>Second House</b>	Policy Committee	6/10/14	6/24/14		6/10/14	6/10/14					
	Second Committee	—	8/04/14		7/2/14	—					
	Passed House	6/26/14	8/25/14		8/11/14	6/12/14					
<b>Concurrence</b>		—	8/27/14		8/13/14	—					
<b>Governor</b>	Received Approved	6/30/14			8/18/14	—					
		07/09/14				—					
<b>Secretary of State</b>	Date Chapter #	07/09/14				6/16/14					
		103				63					

**Bill List:** AB 1798 (Committee on Public Safety): Deadly Weapons  
AB 2747 (Committee on Judiciary): Technical Corrections

SB 940 (Jackson): California Conservatorship Jurisdiction Act (UAGPPJA)  
SCR 83 (Monning): Resolution of Authority

Also of interest:

SB 406 (Evans) (2014 Cal. Stat. ch. 243). Tribal Court Civil Money Judgment Act

KEY

*Italics:* Future or speculative

“—”: Not applicable

\*: Double referral, not fiscal

[date]: Deadline