



The 1995-96 legislative session began on January 4, 1995. The two-year session will continue until August 31, 1996. The first year of the session ended at midnight on September 15, 1995; the second year will convene on January 3, 1996. Any bill listed below which was neither chaptered nor vetoed may be considered during the second year of the session.

Following are some of the general public interest, regulatory, and governmental structure proposals introduced in the first year of the current session.

## ADMINISTRATIVE PROCEDURE

**SB 523 (Kopp).** The Administrative Procedure Act contains provisions governing the conduct of administrative adjudication and rulemaking proceedings of state agencies. As amended September 14, this bill revises the procedures for administrative adjudications by expanding the hearing procedure options available to state agencies and by including additional due process and public policy requirements; these revisions will be operative July 1, 1997 (*see* agency report on DEPARTMENT OF CONSUMER AFFAIRS for more information on this bill). This bill was signed by the Governor on October 14 (Chapter 938, Statutes of 1995).

**AB 1180 (Morrissey).** The APA requires specified state agencies to follow certain procedures with respect to administrative adjudications. As introduced February 23, this bill would permit a small business, as defined, to utilize an alternative hearing procedure when a state agency seeks to impose a civil penalty on that business. [A. CPGE&ED]

**AB 1179 (Bordonaro).** The APA, which sets forth the procedures to be followed by state agencies in adopting or amending regulations, specifies that no administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to business. As amended May 4, this bill would instead specify that no administrative regulation adopted after January 1, 1996, shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses, that the intended benefits of the regulation justify its costs, and the proposed regulation is the most cost-effective of available regulatory options.

The APA requires state agencies to submit specified information to the Office of

Administrative Law (OAL) concerning regulations adopted by that agency: OAL is required to review and approve all regulations adopted pursuant to the Act and submitted for publication in the *California Regulatory Code Supplement*, based on specified standards, and is further required to return a regulation to the adopting agency under specified circumstances. Existing law requires the Secretary of Trade and Commerce to evaluate the findings and determinations required of any state agency that proposes to adopt regulations under the APA, and to submit comments into the record of the agency in regard to the impact of the regulations on the state's business, industry, economy, or job base. This bill would revise the Secretary's duties in this regard; require adopting agencies to submit specified information to OAL that is pertinent to the Secretary's comments, objections, or recommendations; and require OAL to return regulations to the adopting agency under certain additional circumstances. [A. Appr]

## BOARDS AND COMMISSIONS

**SCA 3 (Maddy),** as amended June 20, would create the California Gaming Control Commission and authorize it to regulate and license legal gaming in this state, subject to legislative control. The measure would also create a Division of Gaming Control within the office of the Attorney General, and permit the legislature to impose licensing fees on all types of gaming regulated by the Commission to support the activities of the Commission and the Division. The measure would provide for the regulation of bingo by the Commission, and provide that the proceeds of those games shall be used exclusively to further the charitable, religious, or educational purposes of a nonprofit organization or institution that is exempt from state taxation. This measure would permit the legislature to provide for the regulation by the Commission of both parimutuel wagering on horse racing (currently administered by the California Horse Racing Board) and the State Lottery.

This measure would also exclude from the meaning of "gaming" merchant promotional contests and drawings conducted incidentally to *bona fide* nongaming business operations under specified conditions, and certain types of machines that award only additional play; prohibit the State Lottery from using any slot machine, whether mechanical, electromechanical, or electronic; require the legislature to provide for the recording and reporting of financial transactions by commercial gaming establishments; and define the term "casino" for the purpose of the prohibition against casinos.

Under existing statutory law, the California Horse Racing Board is the state entity responsible for negotiating with Indian tribes for the purpose of entering into a tribal-state compact governing the conduct of horse racing activities on Indian lands of the tribe. No other person or entity is authorized to negotiate tribal-state compacts governing gaming on Indian lands. This measure would authorize the Governor to negotiate and execute tribal-state compacts with Indian tribes that would permit and regulate slot machines located on Indian lands. [S. CA]

**AB 19 (Tucker),** as amended September 15, and **SB 10 (Kopp),** as amended May 15, would repeal the Gaming Registration Act and enact the Gaming Control Act, create the California Gaming Control Commission, and authorize the Commission to regulate legal gaming in California. [S. Appr, S. Rules]

**AB 116 (Speier).** Existing law requires or requests state and local agencies to prepare and submit reports to the Governor or the legislature, or both. As amended June 14, this bill would provide that no state or local agency would be required to prepare and submit any written report to the legislature or the Governor until January 1, 1997, unless it is among a list of specified reports or certain circumstances exist. The act would be repealed on January 1, 1997. [S. Rls]

**SB 974 (Alquist).** Under the State Government Strategic Planning and Performance Review Act, the Department of Finance—in consultation with the Controller, the Bureau of State Audits, and the Legislative Analyst—is required to develop a plan for conducting performance reviews of all state agencies. As amended May 15, this bill would create the Performance Audit Joint Task Force, consisting of the Governor and the Controller, that would be required to periodically identify state executive branch agencies, programs, or practices that are likely to benefit from performance audits. The bill would provide that agencies, programs, or practices that are so identified would be in addition to those otherwise identified under the Act. [A. Appr]

**SB 918 (Hayden).** Existing provisions of the California Constitution establish the University of California as a public trust, administered by a Board of Regents of the University consisting of seven *ex officio* members, and eighteen members appointed by the Governor and approved by the Senate. Existing law also establishes the California State University, which is administered by a board designated as the Trustees of the California State University; the board is composed of five *ex officio* mem-



bers, a representative of the alumni associations of the state university selected by the alumni council, a student member appointed by the Governor, a faculty member appointed by the Governor, and sixteen other members appointed by the Governor and subject to confirmation by the Senate. As introduced February 23, this bill would prohibit any Regent or Trustee from donating to, or soliciting or accepting any campaign contribution for, any committee controlled by the Governor, or donating, soliciting, or accepting any campaign contribution with the intent of transferring the donation through a committee, party, account, or other entity with the intent that the recipient of the donation be any committee controlled by the Governor. The bill would require Trustees to be appointed on the basis of their demonstrated interest and proven ability in higher education policy and budgetary issues. The bill also would provide that no person is eligible for appointment as a Trustee if, during a period of three years prior to his/her appointment, he/she donated to, or solicited or accepted any campaign contribution for, any committee controlled by the Governor, or donated, solicited, or accepted any campaign contribution with the intent of transferring the donation through a committee, party account, or other entity with the intent that the recipient of the donation be any committee controlled by the Governor. [S. Ed]

## BUDGET

**SCA 2 (Kopp).** The California Constitution requires the legislature to pass the budget bill for the ensuing fiscal year by midnight on June 15. As amended June 19, this measure would amend the California Constitution to require the legislature to instead pass the budget bill by midnight on June 30, and to require the forfeiture, in any year in which the budget bill is not passed by the legislature before midnight on June 30, of any salary or reimbursement for travel or living expenses for the Governor and each member of the legislature for the period from midnight on June 30 until the date that the budget bill is passed by the legislature.

Under existing law, the California Constitution contains no provision requiring that the total of all state expenditures authorized under the Budget Act for any fiscal year not exceed the total of all state revenues anticipated for that fiscal year. This measure would require that the total of all expenditures that are authorized to be made from the general fund for any fiscal year under the Budget Act and any other statute, combined with the total of all general fund reserves that are author-

ized to be established by the state for that fiscal year and any general fund deficit remaining from the preceding fiscal year, shall not exceed the total of all revenues and other resources that are available to the state for general fund purposes for that fiscal year.

The California Constitution requires that the legislature establish a prudent state reserve fund in an amount it deems reasonable and necessary. This measure instead would require that the budget bill enacted for each fiscal year provide for a state reserve fund in an amount equal to 3% of the total of expenditures authorized to be made from the general fund for that fiscal year. This measure would authorize the legislature to appropriate money deposited in the state reserve fund pursuant to the vote requirements set forth in current provisions of the California Constitution, or upon a majority vote for the funding of any programs for which funding is appropriated in the current Budget Act. This measure would provide further that the minimum amount required to be deposited in the state reserve fund for the 1997-98 fiscal year shall be equal to one-third, and for the 1998-99 fiscal year shall be equal to two-thirds, of the amount that otherwise would be calculated for that fiscal year. The measure also would reduce the minimum amount to be deposited for each of the two fiscal years succeeding a fiscal year in which the year-end balance in the state reserve fund is less than 50% of the amount required to be deposited in the fund for that year.

The California Constitution empowers the Governor to reduce one or more items of appropriation while approving other portions of a bill, including the budget bill. This measure would require that the annual budget bill include a budget adjustment plan that would set forth budget adjustments to reduce appropriations for that fiscal year or increase general fund revenues, or both, as necessary to eliminate designated imbalances in the general fund budget, as identified in a report prepared by the Department of Finance (DOF) at the conclusion of the fiscal year quarter ending December 31, as certified for accuracy by the Legislative Analyst. The measure would require DOF to prepare similar reports for the fiscal year quarters ending September 30 and March 31.

The measure would require that separate legislation be enacted to identify the conditions under which the Governor would be authorized to implement the budget adjustments and, in the event of the exercise of that authority, to make any changes in law that are necessary to the implementation of that plan. The measure would pro-

vide that the separate legislation would take effect immediately upon enactment, and would be exempt from the two-thirds-vote requirement that applies to general fund appropriations. The measure would specify that the budget bill would not become operative prior to the operative date of that separate legislation.

Under the California Constitution, appropriations from the general fund, except appropriations for the public schools, require the approval of two-thirds of the membership of each house of the legislature. This measure would additionally exempt appropriations in the budget bill from that two-thirds-vote requirement, and specify that a statute enacting a budget bill go into effect immediately upon its enactment.

This measure would specify that the provisions described above would apply to the budget and budget bill for the 1997-98 fiscal year and each subsequent fiscal year, and would be operative for all purposes commencing on July 1, 1997. [S. Inactive File]

## CIVIL PROCEDURE

**AB 1927 (Cunneen).** Under existing law, in each superior court with ten or more judges, all at-issue civil actions are required to be submitted to arbitration by the presiding judge or the judge designated, if the amount in controversy in the opinion of the court will not exceed \$50,000 for each plaintiff. Under existing law, in each superior court with less than ten judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions shall be submitted to judicial arbitration if the amount in controversy in the opinion of the court will not exceed \$50,000 for each plaintiff. As introduced February 24, this bill would change this amount in controversy from \$50,000 to \$150,000. [S. Jud]

## CONSUMER PROTECTION

**AB 40 (Baca).** The Song-Beverly Consumer Warranty Act provides generally the warranties given in the sale of consumer goods. A specific provision of that Act provides that all new motorized wheelchairs sold at retail or leased in California and paid for pursuant to the Medi-Cal Act shall be accompanied by the manufacturer's or lessor's written express warranty that the wheelchair is free of defects. Existing law also provides that if the written express warranty is not provided to the consumer, the motorized wheelchair shall be nonetheless deemed to be covered by this warranty. Existing law provides that no wheelchair that has been returned for fail-



ure to repair a nonconformity after a reasonable number of attempts to conform to the warranty shall be sold or leased again in this state unless the reasons for the return have been fully disclosed to the prospective buyer or lessee.

As amended July 19, this bill revises these provisions to instead require all new and used wheelchairs to be accompanied by a manufacturer's or lessor's written express warranty that the wheelchair is free of defects. The bill specifies that the duration of the warranty shall be at least one year from the date of the first delivery of a new wheelchair or at least sixty days from the date of the first delivery of a used, refurbished, or reconditioned wheelchair to the consumer. The bill provides that if the wheelchair is out of service for a period of at least 24 hours for repair of a nonconformity by the manufacturer, lessor, or agent thereof, a temporary replacement wheelchair shall be made available for not more than the cost to the provider of this wheelchair to make it available. This bill provides that this latter provision is not intended to prevent a consumer and a provider from negotiating an agreement in which the provider assumes the cost of providing a temporary replacement wheelchair to the consumer. This bill provides that these requirements do not apply to wheelchairs manufactured specifically for athletic, competitive, or off-road use. This bill was signed by the Governor on September 2 (Chapter 461, Statutes of 1995).

**SB 426 (Leslie)**, as amended July 28, repeals existing law declaring that it is unlawful for a person to represent that a consumer good which he/she manufactures or distributes is "ozone friendly," "biodegradable," "photodegradable," "recyclable," or "recycled," unless that article meets specified definitions or meets definitions established in trade rules adopted by the Federal Trade Commission.

Under existing law, a person who represents that a consumer good that he/she manufactures or distributes is not harmful to, or is beneficial to, the natural environment, through the use of specified environmental terms, is required to maintain in written form in its records information and documentation supporting the validity of the representation. This information and documentation is required to be furnished to any member of the public upon request and to be fully disclosed to the public, within the limits of all applicable laws. A violation of these requirements is a misdemeanor. This bill provides that it is unlawful for a person to make any untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied. This bill provides that "environ-

mental claim" includes any claim contained in the *Guides for the Use of Environmental Marketing Claims* published by the Federal Trade Commission. This bill provides a defense to a suit or complaint brought under its provisions. A violation of this provision is a misdemeanor. This bill was signed by the Governor on October 6 (Chapter 642, Statutes of 1995).

**AB 1316 (Bustamante)**. With certain exceptions, existing law prohibits any person accepting a negotiable instrument as payment for goods or services sold or leased at retail from, among other things, requiring as a condition of acceptance that the person paying with the negotiable instrument provide a credit card as a means of identification and from recording the credit card number. Existing law, however, permits the retailer to require a purchaser to produce other reasonable forms of identification, which may include a driver's license or a California state identification card, as a condition of acceptance of the negotiable instrument. As amended July 18, this bill provides that where one of these forms of identification is not available, this identification may include another form of photo identification.

Existing law prohibits, with certain exceptions, any person, firm, partnership, association, or corporation, which accepts credit cards, from requesting or requiring and recording personal identification information concerning the cardholder as a condition of acceptance of a credit card. Existing law, however, permits the person, firm, partnership, association, or corporation to require a purchaser to produce other reasonable forms of identification, which may include a driver's license or a California state identification card, as a condition of acceptance of the credit card. This bill provides that where one of these forms of identification is not available, this identification may include another form of photo identification. The bill authorizes the recording of a cardholder's driver's license or identification card number where the cardholder pays with a credit card number and does not make the credit card available upon request to verify the number. The bill exempts the person, firm, partnership, association, or corporation from the prohibition described above if obligated to collect and record the personal identification information by federal law or regulation.

The bill specifically provides that these changes only apply to credit card transactions entered into on and after January 1, 1996. This bill was signed by the Governor on September 2 (Chapter 458, Statutes of 1995).

**AB 1100 (Speier)**. Existing law prohibits a business establishment from discrimi-

nating against a person because of the gender of the person, and specifies the remedies for a violation of this provision. As amended August 31, this bill provides specifically that no business establishment may discriminate, with respect to the price charged for services of similar or like kind, against a person because of the person's gender, and specifies the remedies for a violation of this provision. The bill provides further that its provisions do not alter or affect the provisions of the Health and Safety Code, the Insurance Code, or other laws that govern health care service plan or insurer underwriting or rating practices. This bill was signed by the Governor on October 12 (Chapter 866, Statutes of 1995).

**AB 1381 (Speier)**. The Automotive Consumer Notification Act requires the seller of a vehicle to include a specified "lemon law" disclosure if that vehicle has been returned, or should have been returned, to the dealer or manufacturer for failure to conform to warranties. As amended August 21, this bill revises and recasts the Automotive Consumer Notification Act to, among other things, require the manufacturer to retitle specified defective vehicles in its name, request the Department of Motor Vehicles to inscribe the ownership certificate with a "lemon buy-back" notation, affix a "lemon buy-back" decal to the left doorframe of the vehicle, deliver a specified notice to the transferee of the vehicle, and obtain the transferee's acknowledgment. The bill provides that it shall apply only to vehicles reacquired by a manufacturer on or after January 1, 1996. This bill was signed by the Governor on October 3 (Chapter 503, Statutes of 1995).

**AB 1383 (Speier)**, as amended July 28, would make existing law which authorizes the Department of Consumer Affairs (DCA) to certify third-party dispute resolution processes for "lemon law" disputes inoperative for a four-year period, during which alternative provisions added by the bill would be operative. Among other things, the bill would require DCA to impose an additional fee of up to \$2 on the sale of all new motor vehicles to be used solely for the purposes of the bill subject to appropriation by the legislature.

Existing law specifies the remedies for breach of a consumer warranty, including the remedies for breach of an express warranty. This bill would eliminate the above provisions which specify the damages available for breach of an express consumer warranty, and replace them with provisions applicable solely to motor vehicle manufacturers who refuse to participate in or comply with a decision rendered pursuant to state-certified new car arbitration proceedings under the bill. [S. Jud]



## ELECTIONS

**SB 198 (Kopp).** Existing provisions of the Political Reform Act of 1974 require committees formed primarily to support or oppose a ballot measure, among other committees, to file campaign contribution statements. As amended September 8, this bill would have enacted a State Measure Disclosure Act requiring committees making expenditures to support or oppose a state measure, as defined by the Act, to disclose major contributors whose cumulative contributions total \$50,000 or more in advertisements regarding a measure.

Existing law makes a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties. This bill would have extended these penalties to a violation of the State Measure Disclosure Act. In addition, it would have made a violation of those provisions subject to a civil fine up to three times the cost of the advertisement, including placement costs; would have made the fine applicable to persons who purposefully or negligently cause, or aid or abet, another person to commit a violation; and, except as specified, would have exempted carriers of advertisements from civil, administrative, or criminal penalties. This bill would have further provided that a lack of a civil action under this bill shall not prevent other actions for administrative, civil, or criminal penalties, or injunctive relief, authorized by the Act.

On October 16, Governor Wilson vetoed this bill; among other things, Wilson stated that although the bill would prohibit the creation of shell committees designed to avoid the disclosure of the actual major contributors, its provisions are poorly drafted and could be construed to subject different entities to varying levels of disclosure.

**SB 2 (Kopp),** as amended June 21, expressly authorizes the governing bodies of county boards of education, school districts, community college districts, other districts, any board of supervisors or city council, or the residents of those respective entities, to submit a proposal to the electors to limit or repeal a limit on the number of terms a member of the governing body, board of supervisors, or city council may serve. The bill requires that a term limit proposal apply prospectively only, and makes the operation of the proposal contingent upon the approval of the proposal by a majority of the votes cast on the question at a regularly scheduled election. This bill was signed by the Governor on August 10 (Chapter 432, Statutes of 1995).

**SB 904 (Leslie).** Under the existing Political Reform Act of 1974, the value of all in-kind contributions of \$100 or more is required to be reported in writing to the recipient upon the request in writing of the recipient. As amended April 17, this bill requires any candidate or committee that makes a late contribution that is an in-kind contribution to notify the recipient in writing of the value of the in-kind contribution to the recipient within 24 hours of the time the contribution is made. This bill was signed by the Governor on July 6 (Chapter 77, Statutes of 1995).

**AB 1085 (Martinez).** Under existing provisions of the Political Reform Act of 1974, specified persons—including candidates, individuals, and organizations that meet the definition of “committee”—must file periodic reports itemizing certain campaign contributions they receive and contributions and expenditures they make. The Act also sets forth specific campaign reporting requirements unique to certain types of committees. One type of committee subject to specific campaign reporting requirements under the Act is a “primarily formed committee” which, among other things, is a committee that is formed or exists primarily to support or oppose either a group of specific candidates being voted upon in the same city or county election, or two or more ballot measures being voted upon in the same city, county, or state election. A committee that is formed or exists primarily to support or oppose either a group of specific candidates in the same election that takes place in more than one county, or two or more measures being voted upon in the same city, county, or state election, is not a “primarily formed committee” and thus not subject to the reporting requirements for those types of committees. As amended February 23, this bill provides that committees formed or existing primarily to support or oppose either a group of candidates in the same multicounty election, or two or more measures being voted upon in the same city, county, or state election, is also a “primarily formed committee.” This bill was signed by the Governor on August 3 (Chapter 295, Statutes of 1995).

**SB 24 (Kopp).** Under the Political Reform Act of 1974, various individuals and entities, including candidates, committees that support candidates and ballot measures, lobbyists, slate mailer organizations, and public officials, are required to periodically file with the Secretary of State or other specified public agencies certain reports that disclose their financial activities. When a report is filed after the deadline for its filing, the person or organization responsible for making the filing is subject

to certain civil and administrative penalties under the Act, including a late filing penalty of \$10 per day after the deadline until the report has been filed. The filing officer may waive this penalty for all but specifically defined reports if on an impartial basis the filing officer determines that the late filing was not willful and enforcement of the liability will not further the purposes of the Act. In no event may the late filing penalty exceed the cumulative amount stated in the late report, or \$100, whichever is greater. As amended April 17, this bill would permit filing officers to assess additional late filing penalties for the failure to timely file reports on contributions of \$1,000 or more made or received by candidates or defined committees, independent expenditures of \$1,000 or more made for or against any specific candidate or measure, and payments of \$1,000 or more made to slate mailer organizations, before the date of the election but after the closing date for the last campaign statement required to be filed prior to the election by that candidate or organization. The additional late filing penalties would be assessed at 10% per day of the total amount of contributions, expenditures, or payments stated in the report that was filed after the deadline, but could not exceed the total amount stated in the report. [S. E&R]

**SB 754 (Lockyer).** The existing Political Reform Act of 1974 defines as a late contribution any contribution including a loan that totals in the aggregate \$1,000 or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before the date of the election at which the candidate or measure is to be voted on but after the closing date of the last campaign statement required to be filed before the election. As amended April 17, this bill would prohibit any person from making, and would prohibit a candidate for elective office and a committee from soliciting or accepting, any contribution or loan before the date of the election at which the candidate or measure is to be voted on but after the closing date of the last campaign statement required to be filed before the election if the total amount of contributions or loans made during this time period from a particular contributor exceeds \$1,000. The bill would exclude from these limitations the contribution by a candidate of his/her personal funds to his/her own campaign contribution account. [A. ER&CA]

**SB 68 (Hayden).** The existing Political Reform Act of 1974 requires committees, as defined, to file certain information concerning their contributions and expen-



ditures for various political campaigns. As amended April 25, this bill would require the Secretary of State, not later than January 1, 1997, to develop an electronic reporting process for use by certain committees to file campaign statements required by the Act. The bill would also require the Secretary of State, in conjunction with the Fair Political Practices Commission (FPPC), to establish a training program on the electronic reporting process and make the process and data available to any committee that files a campaign statement pursuant to the provisions of the bill and to the public. This bill would require certain committees that either receive contributions or make expenditures totalling more than \$30,000 in a calendar year to support or oppose candidates for elective state office or state measures to file the campaign statements otherwise required by the act in the electronic format prescribed by the Secretary of State, in conjunction with the FPPC. This bill would permit these committees to voluntarily comply with the electronic format developed by the Secretary of State until December 31, 1997, and require these committees to mandatorily comply beginning on January 1, 1998. [S. Appr]

**AB 1925 (Conroy)**, as introduced February 24, would require the Secretary of State, not later than two years from when the section added by this bill takes effect, to develop an electronic reporting process for use by certain committees to file campaign statements required by the Political Reform Act. The bill would also require the Secretary of State to establish a training program on the electronic reporting process and make the process and data available to any committee that files a campaign statement pursuant to the provisions of the bill and the public. This bill would require any committee that either receives contributions or makes expenditures totaling \$200,000 or more in any calendar year to support or oppose a candidate for elective state office, or to support or oppose a measure, to file the campaign statements otherwise required by the Act in the electronic format prescribed by the Secretary of State. This bill would require these committees to comply with the electronic format developed by the Secretary of State not later than two years from when the section added by this bill takes effect. [A. ER&CA]

**SB 524 (Kopp)**. Existing provisions of the Political Reform Act of 1974 require a lobbying firm to, among other things, register with the Secretary of State, keep detailed records of various payments received and made by the firm, and file periodic reports with the Secretary of State detail-

ing certain payments received and made by the firm. Existing provisions of the Act prohibit a lobbying firm from, among other things, making a gift in excess of \$10 in a calendar month to elected state officers, state candidates, and other specified state officials. The Act defines a lobbying firm to include, among other things, a business entity that receives any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with specified state officials for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which the business entity receives compensation is for that purpose. As amended September 8, this bill would amend the definition of lobbying firm to include a business entity that receives any compensation, other than reimbursement for reasonable travel expenses, to solicit or urge other persons to communicate directly with specified state officials for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which the business entity receives compensation is to influence legislative or administrative action. This bill would require a business entity that is a lobbying firm solely because it meets the new definition, to designate itself as an "indirect communication firm" when registering with the Secretary of State.

This bill would also provide that persons who own an interest in an "indirect communication firm" are not lobbyists under the Act solely because the firm qualifies as a lobbying firm under the Act and that, when a business entity qualifies as a lobbying firm under more than one of the Act's definitions of lobbying firm it is not an "indirect communication firm." This bill would require that any lobbying firm that receives compensation to solicit or urge others to communicate directly with specified officials to influence legislative or administrative action to periodically report the names of the persons who provided the compensation and the specific amounts of compensation provided by those persons. [A. Floor]

**SB 753 (Lockyer)**. Existing law does not impose limitations on the amount that may be contributed to a candidate for statewide elective office. As amended May 23, this bill would prohibit any person from making, and any candidate from soliciting or accepting, any contribution or loan that would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by that candidate, to exceed \$10,000 per primary or per general election cycle and per local or per runoff

election cycle. The bill would define the terms "primary election cycle" and "general election cycle" and "local election cycle" and "runoff election cycle" for these purposes. [A. ER&CA]

**SB 752 (Lockyer) and AB 1814 (Bowen)**. Existing provisions of the Political Reform Act of 1974, as amended by Proposition 73 of the June 1988 direct primary election, prohibit the expenditure of public funds to finance election campaigns, impose contribution limitations on a fiscal year basis, as specified, and prohibit intracandidate and intercandidate transfers of campaign contributions. A decision of the U.S. Ninth Circuit Court of Appeals declared that those contribution limitations and the contribution transfer prohibitions violate the first amendment (see LITIGATION). [12:2&3 CRLR 273-74] SB 752, as amended May 10, and AB 1814, as amended April 5, would repeal those provisions and enact the Campaign Financing Reform Act of 1996. The bills would impose various limitations on contributions that may be made to candidates for legislative office at regularly scheduled primary and general elections and special primary and general elections, and SB 752 would impose expenditure limitations on candidates for legislative office at regular elections. SB 752 would also establish a Legislative Election Fund; eligible nominees for legislative office would be allowed to obtain public funds from that fund for qualified campaign expenditures, provided certain thresholds were obtained.

Under the existing California Personal Income Tax Law, there is no provision allowing taxpayers to transfer part of their income taxes to political campaigns for candidates seeking election to legislative offices. These bills would allow taxpayers to designate on their personal income tax returns that \$5, or \$10 in the case of married individuals filing a joint return, shall be transferred to the Legislative Election Fund, as created by these bills, to be distributed among the eligible nominees. [A. ER&CA, A. Rev&Tax]

**AB 1816 (Bowen)**, as amended April 5, would also enact the Campaign Financing Reform Act of 1996. The bill would impose various limitations on contributions that may be made to candidates for legislative office at regularly scheduled primary and general elections and special primary and general elections, and impose expenditure limitations on candidates for legislative office in primary and general elections. It would also impose limitations on independent expenditures under certain conditions; provide for the enforcement, and set forth remedies and sanctions



regarding violations, of the provisions of the bill; and impose specified responsibility for the administration of the provisions of the bill on the FPPC, the Secretary of State, and the Attorney General. [A. ER&CA]

**SB 704 (Beverly).** Under the Political Reform Act of 1974, various requirements and restrictions govern the reporting of campaign contributions, the reporting of campaign expenditures, the disclosure of a public official's investments, interests in real property, sources of income, receipt of gifts, the registration of and reporting by lobbyists and their employers, the making of gifts by specified persons, and the receipt of gifts and honoraria by elected officers, candidates for public office, and designated employees and other officials in both the state and local government agencies. Existing provisions of the Act generally establish these requirements and restrictions based upon the amount of campaign contributions received and expenditures made, the fair market value of the public official's investments, interests in real property, income, and the value of gifts received, among other things. As amended April 18, this bill would increase the amount at which certain campaign contributions and expenditures, particularly those made to and by candidates for elective state office and committees primarily formed to support or oppose candidates for elective state office and state measures, must be reported under the Act, and the value at which a public official's financial interests, including among other things, his/her investments, interests in real property, and income, must be disclosed.

This bill would add an exception, as specified, to the definition of "contribution" for purposes of the Act's restrictions and its reporting requirements.

This bill would make the honorarium prohibition and gift restrictions currently applicable to all sources of honoraria and gifts made to members and designated employees of local government agencies applicable only to sources whom that person would have to disclose on his/her statement of economic interests. [A. ER&CA]

**SB 986 (Polanco).** Existing law requires the Secretary of State to prepare the state ballot pamphlet setting forth, among other things, a copy of each state measure, arguments and rebuttals for and against each state measure, and an analysis of each state measure by the Legislative Analyst. The Secretary of State is required, among other things, to mail a copy of the state ballot pamphlet to voters. As amended May 16, this bill would permit candidates for statewide office, including candidates for U.S. Senator, to prepare and file, sub-

ject to certain restrictions, a candidate's statement and photograph with the Secretary of State for inclusion in the state ballot pamphlet. This bill would permit the Secretary of State to require each candidate filing a statement to pay in advance to the Secretary of State an estimated *pro rata* share of costs as a condition of having his/her statement included in the ballot pamphlet. [S. ER&CA]

**AB 1043 (Speier).** Except in special elections, existing law does not limit the amount in contributions that can be made to, or solicited or accepted by, a candidate for office. As amended April 4, this bill would limit the making of a contribution to, and solicitation or acceptance of a contribution by, a candidate to \$10,000 during the twelve days before and including the day of an election. This bill would subject violators of this prohibition to criminal penalties and fines, and administrative and civil penalties, of \$5,000 to \$15,000 for each violation of this prohibition.

Existing provisions of the Political Reform Act of 1974 regulate specified activities by candidates and committees in election campaigns. Persons, such as political consultants, who are compensated for services involving the planning, organizing, or directing of matters regulated by the Act are liable under the Act for purposely or negligently causing any other person to violate provisions of the Act. Existing provisions of the Act do not require the registration of political consultants or otherwise regulate their activities. This bill would require political consultants, as defined, to register with the FPPC and prohibit political consultants from acting in that capacity: (1) during any calendar year in which they receive income from a state agency; (2) for two years following completion of incarceration, parole, or probation for a conviction of perjury or any other crime in involving the making of false representations in connection with an election or government service; or (3) for two years after a judgment has been entered against them for a claim based upon defamation in an election or government service. This bill would subject political consultants to the Act's criminal penalties and fines, and administrative or civil penalties, of \$5,000 to \$15,000 for each violation of this bill's provisions. [A. ER&CA]

**SB 834 (Hayden).** Under the Political Reform Act of 1974, a lobbyist is generally defined as an individual who is employed or contracts for economic consideration to communicate directly, or through any agent, with defined state officials for the purpose of influencing legislative or administrative action. Administrative regulations of the FPPC, the agency that is

primarily responsible for administering and enforcing the Act, interpret the Act's definition of lobbyist to include only those individuals who either receive at least \$2,000 in a calendar month in compensation to engage in the defined communications with state officials, or who receive any compensation to engage in the defined communications with state officials on at least 25 separate occasions in two consecutive calendar months. As amended April 17, this bill would change the definition of lobbyist to cover any individual who either receives \$1,000 or more in economic consideration in a calendar year, or whose principal duties as an employee are, to communicate directly or through an agent with defined state officials for the purpose of influencing legislative or administrative action. [S. E&R]

**AB 338 (Vasconcellos).** Existing provisions of the Political Reform Act of 1974 define a "slate mailer" as a mailing of over 200 pieces that supports or opposes a total of four or more candidates or ballot measures. Slate mailer organizations, as defined, and committees primarily formed to support or oppose one or more ballot measures that send slate mailers, are required to include a notice on the mailing stating the name of the organization or committee that prepared the slate mailer, that the organization or committee making the mailing is not an official political party organization, and that appearance in the mailer does not imply endorsement of others also appearing in the mailer or endorsement of or opposition to any issues set forth in the mailer. Also, candidates and ballot measures that pay to appear in the mailer are to be identified in the mailer by inclusion of an asterisk next to their name. As introduced February 9, this bill would require an additional notice on slate mailers providing information about the slate mailer organization or committee that prepared the mailer, including information on how many persons within the organization or committee are authorized to select the candidates or ballot measures that are endorsed on the mailer and whether these persons are from the organization's or committee's general membership, board of directors, or otherwise.

This bill would also remove the requirement that an asterisk be placed next to the names of candidates or ballot measures that pay to appear in the mailer, and instead require that a statement follow each of their names stating that the candidate or measure is endorsed by the organization or committee that prepared the mailing and setting forth the amount of money that candidate or measure paid to appear in the mailer. [A. ER&CA]





**AB 1712 (McPherson)**, as introduced February 24, would require every slate mailer sent by a slate mailer organization using as a part of its name the name of a qualified political party or derivative to contain a notice in at least ten-point Roman boldface type stating: "NOT AN OFFICIAL PARTY DOCUMENT." [A. ER&CA]

**AB 1924 (Conroy)**. Existing law requires the county elections official, within eight days of the filing of a statewide initiative petition, to determine the total number of signatures affixed to the petition and to transmit this information to the Secretary of State. Existing law provides that if, following a random sampling of signatures, the certificates received from all elections officials by the Secretary of State establish that the number of valid signatures does not equal 95% of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to have failed to qualify. It further provides that if the random sampling shows that the number of valid signatures is within 95 to 110% of the number of signatures of qualified voters needed to declare the petition sufficient, the Secretary of State shall order the examination and verification of each signature filed. If, following the verification of signatures, the certificates submitted by all elections officials establish the petition's sufficiency, the petition is deemed to be qualified for the ballot. As introduced February 24, this bill would change the threshold percentage of signatures required for purposes of these provisions from 95% to 92%. [A. ER&CA]

**AB 1269 (Martinez)**. Existing law contains various conflict-of-interest requirements and restrictions applicable to legislative employees, but does not prohibit employees of the legislature from receiving compensation for acting as political and campaign consultants or otherwise assisting other persons on political or campaign matters during their nonworking hours at the legislature. As introduced February 23, this bill would add a provision to the Legislative Code of Ethics to prohibit legislative employees from receiving compensation for engaging in these activities. [A. ER&CA]

**AB 1090 (Martinez)**. Existing provisions of the Political Reform Act of 1974 require specified candidates and public officials to periodically disclose certain gifts and income they receive, limit the amounts in gifts public officials may receive, and prohibit public officials from participating in governmental decisions that foreseeably may have a material financial effect on sources of certain gifts and income to the officials. As introduced February 23, this bill would, for purposes of

the Act, exempt from the definition of gift and income any payment received by a person from a governmental agency or *bona fide* charitable nonprofit organization pursuant to a humanitarian program or entitlement that is generally applicable to all members of the public similarly situated and unrelated to the official's status as an officeholder, where the payment relates to or arises from a state of emergency proclaimed either by the Governor or by the governing body of a city or county. [A. ER&CA]

**AB 1391 (W. Brown)**. Existing provisions of the Political Reform Act of 1974 permit the FPPC to adopt rules and regulations to carry out the purposes and provisions of the Act. As introduced February 24, this bill would prohibit the Commission from adopting any rule or regulation that abridges freedom of speech or of the press as determined by state or federal courts in their interpretations of the U.S. Constitution. [A. Floor]

**AB 1709 (McPherson)**. Existing provisions of the Political Reform Act of 1974 require candidates and committees to periodically file reports with the Secretary of State and other specified agencies disclosing their contributions received and expenditures made; among these required reports is a supplemental preelection statement that candidates and committees must file no later than twelve days before the election for the period ending 17 days before the election when they make contributions totalling \$5,000 or more in connection with that election. As introduced February 24, this bill would require that the same report be filed when candidates or committees make independent expenditures, as defined, totalling \$5,000 or more in connection with an election. [A. ER&CA]

**AB 500 (Bowen)**, as amended April 6, would repeal existing provisions governing election residency confirmation procedures, and instead add provisions requiring the county elections official to conduct a new annual voter residency confirmation procedure, as specified, to be completed no later than 90 days before a direct primary election. This bill would require the county elections official, based on change-of-address data from the U.S. Postal Service indicating that a registered voter no longer resides at his or her registered address, to send to that registered voter a forwardable notice to enable the voter to verify or correct the address information. It would also require the county elections official, based on the change of address information received pursuant to this procedure, to update and correct the voter's registration, place the voter's name in a suspense file, or cancel the voter's registration. [A. ER&CA]

**AB 424 (Speier)**. Existing provisions of the Political Reform Act of 1974 require committees, as defined, to file statements of organization and reports with the Secretary of State and other specified agencies disclosing their contributions received and expenditures made. A committee that is a "sponsored committee" under the Act is required to identify its "sponsor" in the committee's name on its statement of organization and other reports required by the Act. A committee is a "sponsored committee" under the Act if any one of the following conditions is met: (1) the committee receives 80% or more of its contributions from one "person" or that "person's" members, officers, employees, or shareholders; (2) one "person" collects all of the committee's contributions by use of payroll deductions or dues from the "person's" members, officers, or employees; (3) one "person," alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee; or (4) one "person," alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds. The Act defines "person" as "an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert." Candidate-controlled committees and committees whose contributions are received from only an individual are not "sponsored committees." As amended April 6, this bill would change the definition of "sponsored committee" by excluding "two or more associations, committees, corporations, or unions, or any combination thereof, acting in concert" from the definition of "person" unless those corporations or organizations are members of a single industry, trade, or profession.

This bill would further change the definition of "sponsored committee" so that a committee is "sponsored" for purposes of the Act only if one of the following conditions is met: (1) the committee receives 80% or more of its contributions from one "person" or that "person's" members, officers, employees, or shareholders; (2) one "person" collects all of the committee's contributions by use of payroll deductions or dues from the "person's" members, officers, or employees; or (3) the committee receives 50% or more of its contributions from one "person" or its members, officers, employees, or shareholders, and that "person," alone or in combination with other "persons," sets the policies for making expenditures of the committee's funds. [A. ER&CA]



**AB 497 (Horcher).** Under existing law, when a false statement is made in a campaign advertisement or communication by a candidate, a committee controlled by a candidate, a committee controlled by a state measure proponent, or a sponsored committee, the candidate or the person who controls the committee may be liable in a civil action for libel or slander brought by the victim of the alleged libel or slander. No government agency is responsible for bringing libel or slander actions in political campaigns. As amended April 27, this bill would amend the Political Reform Act of 1974 to prohibit, for a defined period during election campaigns, candidates, controlled committees of candidates, and agents thereof from making a libelous statement in political campaigns about other candidates or elected officials, if the statement is made with the knowledge that it is false or where the person making the statement has a reckless disregard for whether or not the statement is false. This bill would authorize the FPPC to seek administrative penalties of up to \$2,000 for each violation of this prohibition. This bill would alternatively authorize the FPPC, and other persons as specified in the Act, to seek damages in court of up to \$2,000 for each violation of this prohibition.

This bill would require that each violation of this prohibition be supported by a finding of clear and convincing evidence and a finding that the violation was perpetrated with actual malice. This bill would prohibit the FPPC from making an order requiring a potential violator to cease and desist from making allegedly libelous communications, but permit the Commission to seek an order from a court of law. This bill would prohibit the application of the Act's criminal remedies to violations of this chapter. [A. ER&CA]

## INFORMATION TECHNOLOGY

**SB 1 (Alquist).** The Office of Information Technology (OIT) in the Department of Finance is charged with identifying new applications for information technology, improving productivity and service to clients, and assisting agencies in designing and implementing the use of information technology. OIT operates under the direction of the Director of the Office of Information Technology, who is prescribed specified responsibilities. As amended August 29, this bill replaces OIT with the Department of Information Technology, which will be managed by the Director of Information Technology with prescribed responsibilities. The Department is charged with providing leadership, guidance, and over-

sight of information technology in state government. Among other things, this bill requires the Department or its director to do all of the following: develop plans and policies to support and promote the effective application of information technology within state government; establish policies and procedures to ensure that major state information technology projects are scheduled and funded in phases; consolidate existing data centers, if deemed in the best interest of the state; report to the Governor and the legislature; and form user committees and advisory committees. This bill was signed by the Governor on October 3 (Chapter 508, Statutes of 1995).

**AB 4 (Bates),** as introduced December 5, would require OIT to work with all state agencies, appropriate federal agencies, local agencies, and members of the public to develop and implement a plan to make copies of public information that is already computerized by a state agency accessible to the public in computer-readable form by means of the largest nonproprietary, nonprofit cooperative computer network at no cost to the public. This bill would require the plan to be completed no later than January 1, 1997, and require OIT to report to the legislature by certain dates on the progress or obstacles in developing or implementing the plan. The provisions of this bill would be implemented only if the state receives federal funding for this purpose. [A. CPGE&ED]

## LEGISLATIVE PROCESS

**SB 662 (Boatwright).** Under existing law, any person who testifies under oath before any competent tribunal, including a legislative committee, and willfully states as true any material matter which he/she knows to be false is guilty of the crime of perjury. As amended July 14, this bill would have provided that any person who knowingly makes any unsworn, false statement on any material matter as a witness testifying voluntarily before a legislative committee is punishable by imprisonment in the county jail not exceeding one year. The bill would have provided that any person who, as a witness before a legislative committee, offers any document or other writing to the legislative committee knowing that it is false or fraudulent is punishable by imprisonment in the county jail not exceeding one year.

On October 11, Governor Wilson vetoed this bill. In his veto message, Wilson noted that the members of the legislature and their staff were not included within the scope of SB 662; according to Wilson, "[i]f the intent of the author is to strengthen the veracity of statements made in legislative committees, the omission of the group

that has the most important role during those deliberations is curious." According to Wilson, he would "be open to reconsideration of this issue if the author would see fit to broaden the provisions of this measure to include the members of the legislature and their staff."

**SCA 18 (Lewis).** Existing provisions of the California Constitution provide that the initiative is the power of the electors to propose statutes and amendments to the California Constitution, and to adopt or reject them. As amended July 24, this measure would prohibit a statewide initiative measure from including or excluding any political subdivision of the state from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision. This measure would also prohibit a statewide initiative measure from containing alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

Existing provisions of the California Constitution provide that initiative and referendum powers may be exercised by the electors of each city or county under procedures that the legislature shall provide. This provision does not affect a charter city. This measure would prohibit a city or county initiative measure from including or excluding any part of the city or county from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city or county or any part thereof. This measure would also prohibit a city or county initiative measure from containing alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

Existing provisions of the California Constitution permit the legislature to propose amendments to initiative statutes and to the California Constitution, and to propose the adoption of general obligation bond acts. This measure would prohibit any of these measures from including or excluding any political subdivision of the state from the application or effect of its provisions based upon approval or disapproval of the measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision, and from containing alternative or cumulative provis-





ions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

This measure would also prohibit a city or county measure proposed by the legislative body of a city, charter city, county, or charter county and submitted to the voters for approval from including or excluding any part of the city, charter city, county, or charter county from the application or effect of its provisions based upon approval or disapproval of the city or county measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city, charter city, county, charter county, or any part thereof, and containing alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [A. Floor]

## LOTTERY

**AB 218 (Richter).** The California State Lottery Act of 1984 provides, among other things, that during the life of a prizewinner, the right of the prizewinner to a prize is not assignable, except that payment of any prize may be paid to another person, paid to a person designated pursuant to an appropriate judicial order, or assigned as collateral for an obligation owed to another person. As amended July 14, this bill specifies that these provisions apply only to an assignment, including an assignment as collateral to secure a loan, that was executed by all parties on or before the operative date of this bill and that provides that all moneys are to be paid or disbursed to the prizewinner on or before December 1, 1995. The bill specifies that these provisions governing assignments shall become inoperative on December 1, 1995, and will be repealed as of January 1, 1996. This bill revises, recasts, and reenacts those provisions of existing law and, in addition, permits the assignment of future payments to another person designated pursuant to an appropriate judicial order if the court determines, among other things, that the prizewinner was represented by legal counsel, that the prizewinner has reviewed and understands the terms of the assignment, and the specific prize payment assigned. The bill also conditions the assignment of any right to receive any prize payment on various specified terms, conditions, and rights that could not be waived or modified by the prizewinner. In addition, the bill establishes a procedure for the enforcement of the lien of a judgment creditor against a lottery prize to be paid in annual installments. This bill was signed

by the Governor on August 3 (Chapter 363, Statutes of 1995).

## OPEN MEETINGS

**SB 725 (Craven).** Existing law relating to open meetings of local agencies requires that before adopting any new or increased general tax or any new or increased assessment, the legislative body of a city, county, special district, or joint powers authority must conduct at least one public meeting allowing public testimony. As amended June 12, this bill makes this requirement applicable to a local agency. This bill was signed by the Governor on August 1 (Chapter 258, Statutes of 1995).

**SB 785 (Calderon).** Existing law exempts from liability for libel or slander any publication or broadcast made by a fair and true report of the proceedings of a public meeting if the meeting was lawfully convened for a lawful purpose and open to the public, or the publication of the matter complained of was for the public benefit. As introduced February 23, this bill would make privileged the publication of the matter complained of if it was in the public interest or for the public benefit. [S. Jud]

## PUBLIC RECORDS

**AB 141 (Bowen).** The California Public Records Act (PRA) requires state and local agencies to make records subject to disclosure under the Act available to the public upon request, subject to certain conditions. As amended June 12, this bill prohibits state and local agencies from selling, exchanging, furnishing, or otherwise providing a public record subject to disclosure under the Act to a private entity in a manner that prevents a state or local agency from providing the record pursuant to the Act. The bill states that it does not require a state or local agency to use the State Printer to print public records nor prevent the destruction of records pursuant to law. This bill was signed by the Governor on July 17 (Chapter 108, Statutes of 1995).

**SB 1059 (Peace).** Under the PRA, state and local law enforcement agencies are required to make public the name and current address of every individual arrested by the agency and of every victim of a crime or incident reported to the agency, subject to certain exceptions. As amended August 31, this bill instead requires, as of July 1, 1996, a state or local law enforcement agency to make public the current address of every individual arrested by the agency and the current address of the victim of a crime where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, politi-

cal, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator. It prohibits the direct or indirect use of this information to sell a product or service to any individual or group of individuals, and requires the requester to execute a declaration to that effect under penalty of perjury. The bill also adds, as exceptions to the requirement that the name and address of crime victims be made public, persons who are victims of certain types of assault and persons who are stalked. This bill was signed by the Governor on October 11 (Chapter 778, Statutes of 1995).

**AB 1158 (Kuykendall).** Under the PRA, public records are open to inspection during the office hours of state and local agencies with specified exceptions. As amended August 28, this bill adds an exception for certain records relating to the retention, location, relocation, or expansion of a company within California. This bill was signed by the Governor on October 9 (Chapter 732, Statutes of 1995).

**AB 958 (Knight).** Under the PRA, public records of state agencies are required to be available for inspection. The Act exempts from disclosure certain records, including test questions, scoring keys, and other examination data used to administer an academic examination. As amended September 1, this bill requires, upon the request of any member of the legislature or upon request of the Governor or his/her designee, the disclosure to the requester of test questions or materials that would be used to administer an examination and are provided by the state Department of Education and administered as part of a statewide testing program to pupils enrolled in the public schools. The bill authorizes the requester to view these materials and states that the requester shall keep these materials confidential. This bill was signed by the Governor on October 11 (Chapter 777, Statutes of 1995).

**AB 142 (Bowen).** The PRA provides, among other things, that any person may receive a copy of any identifiable public record upon payment of fees covering the direct costs of duplication or any applicable statutory fee. As amended April 3, this bill would expressly provide that any agency that has information that constitutes an identifiable public record that is in an electronic format shall, unless otherwise prohibited by law, make that information available in an electronic format, when requested by any person. It would specify that direct costs of duplication shall include the costs associated with duplicating electronic records.

Existing law provides for the state and local administration of a system for the



registration of certain vital information on prescribed forms, and specifies the procedure for managing that information, including the availability and confidentiality of certain information. This bill would define "vital records" for this purpose, expand the authority of the State Registrar to adopt related regulations to include confidential portions of any vital record, and require applicants for copies of vital records to submit an application with prescribed information under penalty of perjury.

The Information Practices Act of 1977 regulates the collection, maintenance, and dissemination of personal or confidential information. This bill would provide that "vital records," as defined, are not authorized to be disclosed under that act except as provided in the law pertaining to vital statistics. *[A. GO]*

**AB 1581 (Hoge).** Under the PRA, public records are open to inspection during the office hours of state and local agencies with specified exceptions; one specific exception is investigatory or security files of law enforcement agencies. As introduced February 24, this bill would expressly add to that exception investigatory or security files compiled by the Gang Reporting Evaluation and Tracking System. *[A. GO]*

**SB 323 (Kopp).** Existing provisions of the PRA require each state and local agency, as defined, to make its records open to public inspection at all times during office hours, except as specifically exempted from disclosure by law; the Act also defines the term "writing." As amended June 8, this bill would revise the definitions of the terms "local agency" and "writing" and would define the term "public agency." The bill would also provide for public inspection of public records and copying in all forms, as specified. The bill would further require public agencies to ensure that systems used to collect and hold public records be designed to ensure ease of public access.

Existing law requires an agency to justify withholding any record by demonstrating (1) that the record in question is exempt under express provisions of the PRA, or (2) that on the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. This bill would require the agency to identify the provision of law on which it based its decision to withhold a record or, if withholding is based on the public interest, to state the public interest in disclosure and the public interest in nondisclosure.

The PRA authorizes the filing of a petition in superior court alleging that cer-

tain public records are being improperly withheld from the public. This bill would prohibit a public official or agency defending the withholding of records against a petition in the superior court that public records are being improperly withheld from the public from offering a rationale not given by the official or agency in denying disclosure of the public records.

This bill would additionally specify that, as of July 1, 1997, in construing the PRA or other law, no inference precluding public access pursuant to the Act shall arise from an authorization or mandate that specified information or records be provided by a specified person, organization, officer, employee, or agency to another specified person, organization, officer, employee, or agency for specified or unspecified purposes. *[A. GO]*

### STATE OFFICIALS

**ACA 6 (Boland).** The California Constitution establishes the office of the Lieutenant Governor and provides, among other things, that the Lieutenant Governor is President of the Senate, shall become Governor when a vacancy occurs in the office of Governor, and shall act as Governor during impeachment, absence from the state, or other temporary disability of the Governor or of a Governor-elect who fails to take office. As introduced January 31, this measure would abolish the office of the Lieutenant Governor and would transfer specified duties of the Lieutenant Governor to the Attorney General. *[A. CPGE&ED]*

**AB 220 (Boland),** as introduced January 31, would delete all statutory references to the Lieutenant Governor and, among other things, would replace the Lieutenant Governor on the State Lands Commission with a public member appointed by the Governor and approved by the Senate, and abolish the Commission for Economic Development within the Lieutenant Governor's office. This bill would not become operative unless and until a constitutional amendment that abolishes the office of Lieutenant Governor is approved by the voters. *[A. ER&CA]*

**AB 1871 (Mazzoni).** Existing provisions of the Political Reform Act of 1974 prohibit a designated employee of a state administrative agency, among others, from representing any other person before any state administrative agency or officer or employee for which he/she worked for twelve months before leaving employment if the appearance or communication is for the purpose of influencing administrative action, as defined, among other things. As amended April 26, this bill would include within the prohibition described above an

appearance or communication that is made for the purpose of influencing any legal enforcement proceeding. *[A. Floor]*

