



The 1993-94 legislative session began on December 7, 1992. The two-year session will continue until August 31, 1994. The first year of the session will continue until midnight, September 10, 1993, with the legislature scheduled to take a one-month recess between July 16 and August 16. The last day for bills to be introduced in 1993 is March 5. Constitutional amendments, urgency measures (requiring a two-thirds vote), tax bills, and resolutions may be introduced beyond the March 5 deadline.

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

BUDGET PROCESS

AB 22 (Speier), as introduced December 7, would provide for the withholding of the payment of legislators' salaries for that period following July 1 of the fiscal year during which the annual budget bill is not passed by the legislature, but would provide for the payment of their salaries for that period after the budget bill is passed; prohibit the reimbursement of legislators' living and traveling expenses for that period following July 1 of the fiscal year during which the annual budget bill is not passed by the legislature; and prohibit the Controller from drawing any warrant for the payment of reimbursement to legislators for travel and living expenses for that period. [A. Rls]

ACA 2 (Hannigan) would provide that statutes enacting budget bills shall go into effect immediately upon their enactment. Also, existing provisions of the California Constitution provide that appropriations from the general fund, except appropriations for the public schools, are void unless passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring. This measure would eliminate that two-thirds vote requirement. [A. W&M]

SB 16 (Killea), as introduced December 7, would create the California Constitution Revision Commission, prescribe its membership, and specify its powers and duties. The measure would require the Commission to submit a report to the Governor and the legislature no later than November 1, 1993, that sets forth its findings with respect to the formulation and enactment of a state budget and recommendations for the improvement of that process. The Commission would also be required to report on specified issues relating to the structure of state governance. The bill would provide that the Commission shall cease to exist as of January 1, 1995. [S. B&FR]

SCA 1 (Kopp). The California Constitution requires the legislature to pass the budget bill for the ensuing fiscal year by midnight on June 15. As introduced December 7, this measure would amend the Constitution to require the forfeiture, in any year in which the budget bill is not passed by the legislature before midnight on June 15, 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 15 until the date that the budget bill is passed by the legislature. [S. Rls]

CIVIL RIGHTS

AJR 1 (Speier), as introduced December 7, memorializes the President and Congress of the United States to propose the adoption of the Equal Rights Amendment to the United States Constitution. [A. Rls]

ACR 2 (Lee), as introduced December 7, would establish the 21-member Commission on African-American Males, to be appointed and composed of Members of the Assembly and Senate and professionals in specified fields; set forth the duties of the Commission, including a requirement that the Commission report its findings and policy recommendations to the legislature on January 31, 1994, and annually thereafter; and provide for the termination of the Commission on January 31, 1995. [A. Rls]

CONSUMER PROTECTION

SB 47 (Lockyer). Existing law requires specified retailers who sell merchandise which will be delivered to the consumer at a later date to specify, either at the time of the sale or at a later date, a four-hour period within which delivery shall be made if the consumer's presence is required. Existing law also sets forth similar requirements for these retailers with regard to service and repair of merchandise. Chapter 693 of the Statutes of 1992, effective January 1, 1993, requires these retailers to specify the four-hour period for delivery either at the time of the sale or at a later date prior to the delivery date. As introduced December 17, this bill would also require these retailers to specify the four-hour period for commencement of service or repair of merchandise prior to the date of service or repair. [S. Jud]

COURTS AND LEGAL SERVICES

SB 10 (Lockyer), as introduced December 7, would revise the number of superior and municipal court judges and

commissioners in various counties, increasing the state's judiciary by 195 positions. The last expansion of the judiciary occurred in 1987, when SB 709 (Lockyer) created 11 new appellate, 64 superior, and 34 municipal court judgeships. Last year, SB 16 (Lockyer) proposed to add 359 new positions, reflective of estimates anticipated from the work of the Judicial Council's Advisory Committee on Court Profiles. However, the legislature declined to consider the bill, citing the state's fiscal crisis. [S. Jud]

SCA 3 (Lockyer), as introduced December 7, would eliminate the provisions for superior, municipal, and justice courts, and instead provide for district courts, their establishment and jurisdiction, and the qualification and election of judges thereof; the measure would become operative on January 1, 1995. [S. Jud]

ELECTIONS

AB 3 (Statham), as introduced December 7, would require the Secretary of State to submit an advisory question to the voters at the next statewide election that would ask whether the legislature shall send a plan that complies with specified conditions to the Congress of the United States by November 8, 1995, requesting the division of the state of California into three states with specified boundaries. [A. Desk]

HEALTH CARE

SB 38 (Torres), as introduced December 8, would enact the California Health Reform Act of 1993; create the California Health Plan Commission; require the Commission to establish and maintain for all California residents a prescribed system of universal health care coverage to be known as the California Health Plan, except that the bill would provide that this provision does not become operative until such time as the legislature declares it to be operative and appropriates funds necessary to implement the provision; require the Commission to produce and deliver to the legislature a prescribed plan for implementation of the California Health Plan on or before July 1, 1995; and require the Commission, on or before July 1, 1994, to report in a certain manner to the legislature regarding the means by which needs for long-term care services can be met. [S. InsCl&Corps]

AB 16 (Margolin), as introduced December 7, would state the intent of the legislature regarding provision of health care services. Among other things, the bill would state the legislature's intent "to es-



establish a system of universal health coverage that guarantees access to quality affordable health care for every Californian; create a Health Standards Board of consumers, providers, business, labor, and government; crack down on billing fraud and eliminate incentives that invite abuse; ban insurance underwriting practices that waste billions of dollars trying to discover which patients are bad risks; establish a core benefits package through the Health Standards Board, guaranteeing a basic health benefits package that includes ambulatory physician care, inpatient hospital care, prescription drugs, and basic mental health services; allow consumers to choose where they receive health care to ensure a better fit between provider strengths and consumer needs; develop health networks that give consumers access to a variety of local health networks made up of insurers, hospitals, clinics, and doctors, to end the costly duplication of services and encourage the shared use of key technologies; guarantee every Californian a core benefits package set by the Health Standards Board either through his or her employer or by buying into a high-quality public program; limit costs for small employers by allowing them to group together and form larger groups to purchase less costly health insurance, or to buy into the public program if it is the cheapest option; phase in business responsibilities, covering employees through the public program until the transition is complete; and improve preventive and primary care through community-based health solutions." [A. Health]

OPEN MEETING LAWS

SB 36 (Kopp). The Ralph M. Brown Act generally requires that the meetings of the legislative bodies of local agencies, as those terms are defined, be conducted openly, with specified exceptions. Among other things, the Act provides for certain notice requirements concerning public meetings and makes it a misdemeanor for a member of a legislative body to attend a meeting where a violation occurs with knowledge of the fact that the meeting violates the Act. The Brown Act defines the term "legislative body" as any multi-member body which exercises any authority of a legislative body of a local agency delegated to it by that legislative body. This bill would specify that such a body that exercises any material authority of a legislative body of a local agency delegated to it is a legislative body whether it is organized and operated by a local agency or by a private corporation specifically created to exercise the delegated

authority with a specified exception.

The Brown Act defines the term "legislative body" to include an advisory body of a local agency. This bill would require an advisory body to post an agenda for its meetings in the manner required of the body it advises. The bill would exclude a limited duration ad hoc committee from the definition of legislative body but would include any standing committee, as defined, of a governing body irrespective of its composition.

This bill would also define "member of a legislative body of a local agency" to include any person elected to serve as a member of a legislative body and who has not yet assumed the duties of office.

The Brown Act generally requires all meetings of the legislative body of a local agency to be open and public. This bill would define "meeting," with exceptions, as any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the legislative body or its local agency, and any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members to develop a collective concurrence as to action to be taken on an item.

The Brown Act requires that all meetings of the legislative body of a local agency shall be open and public with specified exceptions. This bill would prohibit a legislative body from taking action by secret ballot.

The Brown Act permits recording of open and public meetings by any person. This bill would make any recording made at the direction of a local agency a public record under the California Public Records Act. The bill would also provide that no legislative body shall prohibit or otherwise restrict the broadcast of its proceedings in the absence of a reasonable finding that the broadcast cannot be accomplished without disruption.

Under the Brown Act, meetings of the legislative body of a local agency need not be held within the boundaries of the territory over which the agency exercises jurisdiction. If an emergency makes the designated meeting place unsafe, the presiding officer may designate a meeting place for the duration of the emergency. This bill would require meetings to be held within the boundaries of the territory of the agency, with limited exceptions and with additional exceptions for the governing board of a school district, and would permit the presiding officer's designee to designate an emergency meeting place.

The Brown Act requires the posting of

an agenda at least 72 hours before a regular meeting of a legislative body briefly describing each item of business, and restricts action or discussion of the meeting to these items on the agenda unless, by at least a two-thirds vote, the legislative body decides there is a need for action on a nonagenda item. This bill would revise the contents of the required description, permit members of a legislative body to respond to certain questions not relating to agenda items, and impose further restrictions on the discussion or action on non-agenda items.

The Brown Act requires the agenda for a regular meeting to provide an opportunity for members of the public to address the legislative body. This bill would require the agenda for a special meeting at which action is proposed to be taken on an item to provide an opportunity for members of the public to address the legislative body prior to action on the item. The bill would further require the legislative body not to abridge or prohibit constitutionally protected speech, including but not limited to public criticism of the agency. This bill would also prescribe agency disclosure of the nature of closed sessions according to a specified format.

Existing law specifies the circumstances requiring a notice of the adjournment or continuance of a meeting to be made and posted. This bill would further require that the notice of adjournment or continuance be given to the news media.

The Brown Act authorizes closed sessions of a legislative body to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session would prejudice the position of the local agency in the litigation, and describes the facts and circumstances that constitute pending litigation. Existing law states that this authority is the exclusive expression of the lawyer-client privilege for purposes of conducting closed sessions pursuant to the Act. The Act requires the legal counsel to prepare a memorandum concerning the reasons and legal authority for the closed session. This bill would state that this authority for closed sessions for the legislative body to confer with or receive advice from its legal counsel does not limit or otherwise affect the lawyer-client privilege as it may apply to written or other communications outside meetings between the legislative body and its legal counsel. The bill would specify additional facts and circumstances for determining what is pending litigation, and delete the memorandum requirement.

Under the Brown Act, closed sessions may be held for various reasons, including matters relating to employees, as defined.



This bill would revise the definition of "employee" to exclude any elected official, member of a legislative body, or person providing services to the local agency as an independent contractor or the employee of an independent contractor, and would require that, as a condition of holding a closed session on complaints against an employee, charges to consider disciplinary action, or to consider dismissal, the employee be given written notice of his/her right to a public hearing. Failure to give the notice would nullify any action taken in the closed session against the employee.

The Brown Act requires the legislative body to publicly report closed session actions taken and roll call votes to appoint, employ, or dismiss a public employee. This bill would instead require the legislative body to publicly report any action taken in closed session and the vote or abstention of every member present on real estate negotiations, litigation and pending litigation issues (with specified exceptions), claims for various liability losses, various personnel actions, and certain collective bargaining matters. The bill would prohibit any action for injury to reputation or other personal interest by an employee with respect to whom a disclosure is made by a legislative body in compliance with these provisions. The bill would prescribe how the reports are to be made and would require a brief statement of the information to be posted.

The Brown Act permits legislative bodies of local agencies to designate a clerk, officer, or employee to attend each closed session and enter in a minute book a record of the topics discussed and decisions made at the meeting. This bill would require the legislative bodies to appoint a person for that purpose.

Under the Brown Act, agendas and writings distributed to members of the legislative body by persons connected with the body for discussion or consideration at a public meeting of the body are public records unless specifically exempt from public disclosure. This bill would specify that writings intended for distribution to members by any person in connection with a matter subject to discussion or consideration at a public meeting are public records, and specify that writings intended for distribution prior to commencement of a public meeting are public records, whether or not actually distributed to, or received by, the legislative body at the time of request for copying. The bill would require that writings that are made public records under this provision and are distributed during a public meeting be made available for public inspection im-

mediately, or after the meeting, as specified.

The Brown Act requires the legislative body to state the general reason or reasons for holding any closed session prior to or after holding the closed session. This bill would require the reasons to be stated prior to holding the closed session and would specify the format for the statement.

The Brown Act makes it a misdemeanor for a member of a legislative body to attend or participate in a meeting of the legislative body where action is taken in violation of the Act with knowledge of the fact that the meeting is in violation of the Act. This bill would instead make it a misdemeanor if the member attends or participates with intent to deprive the public of information to which it is entitled under the Act.

The Brown Act permits any interested person to commence an action by mandamus or injunction to obtain a judicial determination that an action taken by a legislative body in violation of specified provisions of the Act is null and void, unless any of specified conditions exist. However, a prior demand must first be made of the legislative body to cure or correct the alleged violation within 30 days from the date the action was taken. This bill would expressly permit the district attorney or any interested person to commence an action as described, and would also permit an action to determine the validity of any rule or action by the legislative body to limit the expression of its members or to compel the legislative body to tape record its closed sessions, as specified. The bill would also require the written demand to be made within 90 days if the alleged violation occurred in a closed meeting.

The bill would prohibit the conduct of meetings or functions in facilities inaccessible to disabled persons or that require members of the public to make a payment or purchase. [S. LGov]

BOARDS AND COMMISSIONS

AB 15 (Klehs), as introduced December 7, would abolish the Franchise Tax Board and would provide for the transfer of its powers and duties to the State Board of Equalization, operative January 1, 1995. [A. Rev&Tax]

SB 2 (Kopp), as introduced December 7, would expressly authorize the governing bodies of county boards of education, school districts, community college districts, or special districts, any board of supervisors or city council, or the residents of those respective entities, to submit a proposal to the electors to limit the

number of terms a member of the governing body, board of supervisors, or city council may serve, or the number of terms an elected county superintendent of schools or any other elected city or county officer may serve. The bill would make the operation of the proposal contingent upon the approval of the proposal by a majority of the votes cast on the question at a special or regularly scheduled election. [S. E&R]

SCA 2 (Kopp). Existing provisions of the California Constitution establish the University of California as a public trust administered by a Board of Regents consisting of eighteen members appointed by the Governor and approved by the Senate and seven ex officio members, including the Governor, Lieutenant Governor, Speaker of the Assembly, Superintendent of Public Instruction, president and vice president of the alumni association of the University, and acting president of the University. The Regents may also appoint to the Board of Regents a member of the faculty at a campus of the University or of another institution of higher education and a person enrolled as a student at a campus of the University. The terms of the appointive members are twelve years and the terms of the faculty and student members are not less than one year.

As introduced December 7, this measure would require that the Board of Regents consist of six members appointed by the Governor, three members appointed by the Speaker of the Assembly, three members appointed by the Senate Rules Committee, the president and vice president of the alumni association of the University, and a student of the University selected by the Council of Student Body Presidents. The measure would also require that the terms of the members appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules be eight years, the term of the student member be one year, and the president and vice president of the alumni association of the University serve during the time they occupy those offices. The measure would provide that the terms of the members of the Board in office on the effective date of the measure would expire on that date. [S. Ed]

