



GENERAL LEGISLATION



The 1991-92 legislative session began on December 3, 1990; although the two-year session was scheduled to conclude on August 31, 1992, the failure by the legislature and the Governor to enact the state's 1992-93 budget in a timely manner forced the legislature to remain in session until September 2. Bills which were not passed by the legislature prior to its September 2 adjournment are dead. Bills passed by the legislature and enrolled to the Governor prior to September 1 must be acted on by the Governor within twelve calendar days—unless the twelfth day falls on a Saturday, Sunday, or holiday, in which case the deadline for the Governor's action falls on the following regular work day. The Governor had thirty days to act on legislation enrolled and/or delivered on September 1 or later, and on previously-enrolled legislation still in his possession on September 1 (California Constitution Article IV, Section 10).

The following is a summary of many general public interest, regulatory, and governmental structure proposals; most of the following bills were described in detail in CRLR Vol. 12, No. 2&3 (Spring/Summer 1992) at pages 278-81.

BUDGET PROCESS

AB 2874 (Epple), until January 1, 1995 and with specified exceptions, requires all state agencies to stop all studies which require the expenditure of moneys from the general fund, if the studies are not found to be absolutely necessary to protect the health, welfare, or safety of the public. This bill was signed by the Governor on September 14 (Chapter 711, Statutes of 1992).

The following bills died in committee: **AB 2398 (Isenberg)** and **SCR 5 (Alquist)**, which would have created the California Constitution Revision Commission to propose reforms to the state's budget process; **SCA 6 (Lockyer)**, which would have amended the California Constitution to provide that the vote of a majority of the membership of each house of the legislature—instead of two-thirds—shall be sufficient to pass the budget bill; and **SCA 35 (Lockyer)**, which would have enacted the Balanced Budget Act of 1992, providing that at the time the budget bill is enacted, the total of all expenditures that are authorized to be made and the total of all reserves that are authorized to be established by the state for any fiscal year shall not exceed the total of all revenues and other resources, including reserves for prior years, as projected by the Commission on State Finance or its successor, to be available for that fiscal year.

CIVIL PROCEDURE

SB 711 (Lockyer), the Sunshine in the Courts Act, would have generally prohibited secrecy provisions in litigation settlements which involve the sealing of court documents regarding a public hazard which involves a product defect, fraud, or environmental hazard, without allowing for notification to appropriate regulatory agencies. Governor Wilson vetoed this bill on September 10.

SB 10 (Lockyer) would have, among other things, required judicial arbitration of motor vehicle accident claims involving third-party liability for bodily injury if the amount in controversy does not exceed \$50,000. Governor Wilson vetoed this bill on September 26.

CIVIL RIGHTS

AB 2601 (T. Friedman). Existing statutory law prohibits employers from making, adopting, or enforcing any policy that tends to control or direct the political activities or affiliations of employees. It also prohibits employers from coercing, influencing, or attempting to coerce or influence employees to adopt or follow or refrain from adopting or following any particular line of political activity by threatening a loss of employment. Existing court decisions, for purposes of the above provisions, recognize that actions of homosexuals for equal rights, including actions in the field of employment, are political activity within the above statutory provisions and are protected from the adverse policies of employers and prospective employers.

This bill codifies these court decisions and specifies that the above statutory provisions prohibit discrimination or different treatment in any aspect of employment or opportunity for employment based on actual or perceived sexual orientation. It provides that this prohibition shall apply to any person regularly employing five or more persons or any person acting as an agent of an employer, as specified, but it does not apply to a religious association or corporation not organized for private profit, whether incorporated as a religious or public benefit corporation. This bill was signed by the Governor on September 25 (Chapter 915, Statutes of 1992).

AB 3825 (Brown) was an omnibus civil rights statute which would have superseded several recent California Supreme Court decisions which have restricted certain civil rights protections and the remedies available to victims of unlawful discrimination. Specifically, the bill would have specified that the existing

Unruh Civil Rights Act expressly prohibits all arbitrary discrimination by business establishments; permitted the Fair Employment and Housing Commission (FEHC) to award compensatory and punitive damages to victims of unlawful housing and employment discrimination; prohibited housing and employment discrimination based on sexual orientation; codified FEHC's rule prohibiting "English only" rules in the workplace; and conformed state disability laws to the federal Americans with Disabilities Act. Governor Wilson vetoed this bill on September 26.

SB 1257 (Roberti), which would have changed the name of the Unruh Civil Rights Act to the Roberti-Unruh Civil Rights Act and specified that the Act prohibits all forms of arbitrary discrimination by business establishments, died in committee.

CONSUMER PROTECTION

SB 1586 (Presley). Existing law provides that any person who violates the unfair competition laws shall be liable for civil penalties. This bill provides that any person who engages in, has engaged in, or proposes to engage in unfair competition may be enjoined in a court of competent jurisdiction and shall be liable for a civil penalty for each act. The bill provides that an act of unfair competition may result in one or more violations, depending on the circumstances of the action. This bill was signed by the Governor on August 1 (Chapter 430, Statutes of 1992).

AB 2999 (Peace). Existing law requires a consumer credit reporting agency to provide a free copy of a consumer credit report to a consumer, if the consumer requests the report within thirty days after notification of adverse action or notification that the consumer's credit rating may be or has been adversely affected. This bill allows consumers sixty days in which to make this request. This bill also requires all credit services organizations to annually register with the Department of Justice and requires a registration fee. This bill was signed by the Governor on September 12 (Chapter 651, Statutes of 1992).

CORPORATE CRIME

SB 537 (Killea) would have provided that any business which has filed for bankruptcy, or against which an involuntary bankruptcy has been filed, or is in receivership, must notify any prospective buyer of the legal status of the business prior to entering into a contract with the buyer in which the buyer assumes the position of a future creditor. The bill would also have prohibited such busi-



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nesses from soliciting, demanding, receiving, or accepting any deposit, membership fee, down payment, or any other payment from a buyer or prospective buyer at any time after the seller has filed for bankruptcy, knows that the business will go out of business, and is unable to provide the goods or services described in the contract. Governor Wilson vetoed this bill on September 27.

AB 1313 (Friedman) was a spot bill which its sponsors would have amended in order to prevent an anticipated effort to repeal the Corporate Criminal Liability Act of 1990 (Chapter 1616, Statutes of 1990). [11:3 CRLR 142; 10:4 CRLR 132] This bill died in committee.

COURTS AND LEGAL SERVICES

SB 1264 (Lockyer) reenacts prior law, which had been repealed by its own provision on January 1, 1992, providing that no cause of action may be maintained against a person serving without compensation as a director or officer of a nonprofit corporation incorporated pursuant to specified provisions of the nonprofit corporation law and organized to provide charitable, education, scientific, social, or other forms of public service, on account of any negligent act or omission by that person within the scope of that person's duties, unless the court enters an order allowing the pleading that included the claim upon establishment of evidence that substantiated the claim.

This bill also provides that a so-called "SLAPP suit"—i.e., a cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the constitutions of the United States or California in connection with a public issue—shall be subject to a special motion to strike, unless the court, after considering the pleadings and supporting and opposing affidavits, determines that there is a probability that the plaintiff will prevail on the claim. This bill also provides for the recovery of attorneys' fees and costs by a prevailing defendant on a special motion to strike, and by a prevailing plaintiff if the court finds that the motion was frivolous or solely intended to cause unnecessary delay. This bill was signed by the Governor on September 16 (Chapter 726, Statutes of 1992).

SCA 14 (Hill), which would have provided that no court shall have the power to order either the imposition of any tax or local levy or the increase of any tax or local levy, as specified, not expressly

authorized by the constitution or by statute, as a remedy to pay for the support of an unfunded or underfunded government program, and **AB 683 (Moore)**, which would have established a Legal Access Pilot Program and Advisory Commission within the Department of Consumer Affairs' Tax Preparer Program to register and regulate nonlawyer "legal technicians" providing legal assistance, died in committee.

ELECTIONS

AB 3110 (Polanco). Under the existing Political Reform Act of 1974, with certain exceptions, any lobbyist employer and any person who directly or indirectly makes payments to influence legislative or administrative action of \$5,000 or more in value in any calendar year is required to file periodic reports with the Secretary of State. These reports are required to contain specified information including, among other things, the total payments to influence legislative or administrative action, including overhead expenses and all payments to employees who spend 10% or more of their compensated time in any one month in activities related to influencing legislative or administrative action. This bill imposes a state-mandated local program by requiring all state and local agencies to disclose, except for overhead expenses, all payments of \$250 or more made in a reporting period for, including among other things, dues or similar payments made to any organization or federation which makes expenditures equal to 10% of its total expenditures, or \$15,000, or more to influence legislative or administrative action. This bill was signed by the Governor on July 14 (Chapter 214, Statutes of 1992).

SB 1819 (Killea). Existing provisions of the Political Reform Act of 1974 require that a committee file a statement of organization with the Secretary of State containing specified items of information including, if it is a candidate controlled committee, the name of the candidate. This bill additionally requires a committee controlled by a candidate for partisan office to include in that statement the political party, if any, with which the candidate is affiliated. This bill was signed by the Governor on July 14 (Chapter 223, Statutes of 1992).

SB 1475 (Kopp) would have required the state ballot pamphlet to contain a section near the front of the pamphlet providing a concise summary of the general meaning and effect of "yes" or "no" votes on each measure. Governor Wilson vetoed

this bill on September 27.

AB 3083 (Chacon). Existing provisions of the Political Reform Act of 1974, as amended by Proposition 105 of the November 1988 general election, require that an advertisement authorized or paid for by a committee, as defined, contain specified items of information, including a disclosure of funding sources. Because Proposition 105 was declared invalid by a final judgment of an appellate court [11:2 CRLR 187-88], this bill repeals the provisions relating to initiative advertisements. This bill was signed by the Governor on July 11 (Chapter 171, Statutes of 1992).

AB 1075 (Clute), among other things, requires that in addition to a statement of investments and interest in real property, a candidate for specified state and local offices is also required to disclose any income received during the preceding twelve months. This bill was signed by the Governor on September 29 (Chapter 1141, Statutes of 1992).

AB 1657 (Chacon) changes the deadline dates for the Department of Finance and Joint Legislative Budget Committee to submit revenue effect estimates regarding the financial impact an initiative may have on state and local government, and provides that the author of an initiative and no more than two persons appointed by the author may draft an argument for the adoption of the measure; alternatively, the bill permits the author to appoint no more than three persons to draft an argument for the adoption of the measure. This bill was signed by the Governor on July 18 (Chapter 232, Statutes of 1992).

AB 1590 (Eaves), among other things, permits the conduct of an election entirely by absentee ballots if 250 or fewer persons are registered to vote within a precinct on the 88th day before the election. This bill was signed by the Governor on August 20 (Chapter 527, Statutes of 1992).

The following bills died in committee: **AB 34 (Wyman)**, which would have required the Legislative Analyst to prepare a condensed analysis of each measure appearing in the statewide ballot pamphlet, including information on the meaning of a "yes" or "no" vote on each measure; **AB 1068 (Clute)**, which would have provided—among other things—that any late contribution report or late independent expenditure report involving \$1,000 or more in contributions or expenditures is subject to a fine in an amount equal to 10% of the total contributions or expenditures disclosed; **AB 2951 (Vasconcellos)**, which would have established the Campaign Finance Reform Act of



1992, imposing limitations on contributions to and expenditures by candidates for elective office; **ACA 17 (Farr)**, which would have provided that in order to qualify an initiative petition which amends the California constitution for the statewide ballot, the petition shall contain the signatures of at least 10%, rather than 8%, of the total vote for all candidates for Governor at the last gubernatorial election; **ACA 20 (Campbell)**, which would have provided that whenever a proposed amendment or revision to the constitution specifies that a certain percentage of the vote, beyond a simple majority, is required to enact the measure, any subsequent amendment or revision shall be subject to the same vote requirement; **ACA 24 (Costa)**, which would have provided that the Secretary of State shall not submit an initiative or referendum measure, constitutional amendment, or other statewide proposition at a presidential primary election or special statewide election held on the same day as a presidential primary election, where that presidential primary or special statewide election is not consolidated with the statewide primary election; **SCA 3 (Maddy)**, which would have provided that an initiative measure does not violate the single subject rule so long as the multiple provisions are reasonably germane to the general objective or purpose of the measure and reasonably interdependent with all other provisions; **SCA 4 (Keene)**, which would have established a public financing system of political campaigns for statewide constitutional officers, members of the legislature, and members of the State Board of Equalization, among others; **SCA 19 (Marks)**, which would have provided that any initiative statute or referendum shall take effect on the day after the Secretary of State officially certifies the vote or on the 39th day after the measure is submitted for certification, whichever is earlier, or on the date specified in the measure, if that date is more than 39 days from the date the measure is submitted for certification, rather than taking effect on the day after the election; and **ACA 16 (Sher)**, which would have established an indirect initiative process by requiring the Secretary of State, upon receipt of a regular initiative petition which contains at least 80% of voters' signatures necessary to qualify it for the ballot, to notify and submit copies to the legislature during the regular legislative session.

ELECTRONIC MEDIA

AB 2009 (Lempert), which would have prescribed procedures to be followed by the governing board of a school district

that enters into written or oral contracts which permit advertisements to be transmitted to students by any electronic media during the school day, and **SB 741 (Torres)**, which would have prohibited school districts from entering into contracts which require advertisements to be transmitted to students by any electronic media during the school day, died in committee.

HEALTH CARE

SB 6 (Torres) would have enacted the California Health Reform Act of 1992; created the California Health Plan Commission; and required 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. Governor Wilson vetoed this bill on September 30.

The following bills died in committee: **SB 308 (Petris)**, which would have created a payroll tax system of collecting funds from employers and employees to finance a state-operated, universal health care system; **AB 321 (Margolin)**, which would have enacted the California Family Health Plan Act, requiring the Department of Health Services to establish a comprehensive program to provide prenatal services to pregnant women, as well as child health care to children under the age of 18 years of age, and health care for all women and children who are not eligible for Medi-Cal and do not have their own private health insurance; **AB 502 (Margolin)**, which would have enacted the California Health Reform Act of 1992; and **SB 248 (Maddy)** and **AB 2001 (Brown)**, which would have enacted the California Medical Association's Affordable Basic Health Care Act of 1992, requiring every non-exempt employer to provide basic health care coverage to each employee and dependent, including—among other things—payment of at least 75% of the lowest premium for basic health care coverage the employer offers each covered employee and dependent.

LEGISLATIVE PROCESS

The following bills died in committee: **ACA 29 (Bane)**, which would have provided that the legislature may submit any statute which has passed both houses of the legislature by a majority vote, except general obligation bond acts, to the voters at the next statewide election as an alternative to approval by the Governor; **ACA 36 (Elder)**, which would have provided that three-fifths of voting members, rather than two-thirds of the membership, of each house of the legislature shall be sufficient to override a Governor's veto; **SCR 18 (Hart)**, which

would have limited the number of bills which a Senator or Assemblymember may introduce during the 1991-92 Regular Session and expressed legislative intent that the bill introduction limits are necessary because of the post-Proposition 130 staff reductions and budget constraints; and **SCR 2 (Hart)**, which would have limited the number of bills which a Senator or Assemblymember may introduce during each two-year session to 65 bills and 40 bills, respectively.

LOTTERY

AB 163 (Floyd), which would have—among other things—required the California State Lottery Director to engage an independent firm to conduct research concerning the demographics of Lottery players, and to identify populations of people who are, or who are at risk of becoming, problem or compulsive gamblers, and **AB 164 (Floyd)**, which would have provided that any unclaimed Lottery prize money shall be deposited in the California State Lottery Education Fund, died in committee.

OPEN MEETINGS LAWS

AB 3476 (Burton) and **SB 1538 (Kopp)** would each have made a number of amendments to the Ralph M. Brown Act, which generally requires the meetings of the legislative bodies of local agencies be conducted openly, with specified exceptions. Governor Wilson vetoed both bills on September 30.

SB 1977 (Bergeson), among other things, amends the Ralph M. Brown Act to require the legislative body of any city, county, or special district, before adopting any new or increased general tax or any new or increased assessment, to conduct at least one public meeting, with 45 days' notice, regarding the proposed new or increased general tax or new or increased public assessment in addition to the noticed public meeting at which the legislative body proposes to enact or increase the general tax or assessment. This bill was signed by the Governor on September 29 (Chapter 1234, Statutes of 1992).

STATE BOARDS AND COMMISSIONS

SB 458 (Killea) would have established the California Constitution Revision Commission until February 1, 1995, and required the Commission to report on specified issues relating to the formulation and enactment of the state budget and alternative structures for state government. Governor Wilson vetoed this



bill on September 30.

AB 3273 (Floyd) would have removed the Secretaries and staff of the State and Consumer Services Agency, the Business, Transportation and Housing Agency, the Health and Welfare Agency, the Resources Agency, and the Youth and Adult Correctional Agency from various state boards and commissions on which they now serve, and transferred specific state program responsibilities presently assigned to the agencies to constituent departments within the agencies. This bill died in committee.

