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GOVERNOR COMPLETES WORK ON REGULAR SESSION BILLS, SIGNS CRITICAL BAR/JUDICIARY BILLS

Governor Arnold Schwarzenegger Sunday completed his signing/vetoing of the 964 bills sent to him by the Legislature this year, signing 750 and vetoing 214.

Among the bills signed during the past week were three of critical importance to the State Bar and the state's judiciary:

- [SB 686 \(Corbett\)](#), the State Bar's Fee Bill, extends for one year the Bar's ability to collect the fees needed to fund its operation. The measure also includes a \$10 three-year Technology Assessment for all active members, which will enable the Bar to make much needed improvements to its technology infrastructure, but repeals the long-standing Building Fund assessment, thus keeping the fee for active lawyers in 2008 at the current level of \$400.

SB 686 also contains a provision added by the Assembly Judiciary Committee to make clear that, in addition to providing direct services, attorneys may help to accomplish their pro bono goals, in part, by making financial contributions to legal services organizations when they are unable to actually perform hours of service.

- [AB 1723](#) (Assembly Judiciary Committee) requires banks to offer IOLTA rates comparable to those paid to other depositors with similar accounts, and updates the kinds of investment vehicles in which IOLTA accounts may be held. (IOLTA accounts hold only those client funds that are nominal in amount or are on deposit for a short period of time and cannot earn interest for the client in excess of the cost).

Currently, interest-earning, checking account-type IOLTA accounts are earning only about one percent overall - about the same level as it has been since 2002, when federal fund rates plunged from a high of over 6 percent to 1 percent. Since 1984 when the first grants were distributed, IOLTA funding has ranged from a high of \$22.7 million in 1992 to a low of \$5.7 million in 1994. Bar leaders believe that the flexibility permitted by AB 1723 will potentially double the current \$13.8 million in IOLTA funding for legal aid. In his [signing message](#), Governor Schwarzenegger said the higher earnings "will also benefit the courts by

alleviating some of the burdens imposed by litigants who are currently forced to represent themselves."

- [AB 159 \(Jones\)](#) provides the authorization needed for the Governor to appoint the 50 judges funded in the state Budget, and also authorizes the conversion of subordinate judicial officers (SJOs) to judgeships in eligible courts as positions become vacant, up to a maximum of 16 per year. According to the Judicial Council, "the conversion of SJOs will help trial courts manage their calendars by creating a balance between the number of judges and subordinate judicial officers that better reflects the workload of the court."

The lists of new judgeships and courts eligible for SJO conversion, (and the numbers of positions they may convert), were approved by the Judicial Council at its February 23, 2007 meeting (see page 11 of the [report](#) for the list of new judgeships and page 20 for the list of SJOs).

Other court-related Judicial Council bills signed into law by Governor Schwarzenegger include [AB 227 \(Beall\)](#) relating to trial court funding; [AB 1248 \(Evans\)](#), an omnibus court operations measure; and [SB 340 \(Ackerman\)](#), relating to court investigators' access to criminal history information, and jointly sponsored with the California Judges Association.



Feuer

Not all important legislation sponsored or supported by the judiciary received favorable treatment, however. Governor Schwarzenegger vetoed [AB 467](#) by Assembly Member [Mike Feuer](#) (D-Los Angeles), a Judicial Council-sponsored bill to improve the procedures for indigent litigants to obtain a waiver of court fees.

In his [veto message](#), Schwarzenegger said AB 467 "would further burden California's overworked courts, add to the number of frivolous and marginal cases, and potentially increase fraudulent fee-waiver applications."

Quoted in The Recorder legal newspaper, Feuer, former head of the Bet Tzedek legal aid program in Los Angeles, expressed amazement at the veto: "The message would suggest that the courts would be opposed to the bill," Feuer is quoted as saying. "But the courts supported this bill."

Other important Judicial Council-sponsored legislation didn't make it to the Governor's desk despite heroic 11th hour efforts. [SB 145 \(Corbett\)](#), which would extend the deadline for transfer of responsibility for court facilities from the counties to the state from June 30, 2007, to December 31, 2008, stalled on the Assembly Floor on the final night of session. The Judicial Council will seek to move SB 145 when the Legislature reconvenes in January. An urgency measure, the bill would take effect immediately upon enactment.

SECTION-SPONSORED LEGISLATION FARES WELL IN 2007

Legislation sponsored by the voluntarily-funded sections of the State Bar fared well at the Governor's hands, with all five section-sponsored bills sent to the Governor's desk winning his signature.

- [AB 403 \(Tran\)](#) – Sponsored by the Trusts & Estates Section. Reinstates the attorney-client privilege after the death of the client in probate cases where disclosure of an otherwise protected communication is sought after an estate has been closed and the personal representative discharged. Also requires the California Law Revision Commission to study the issue of whether the attorney-client privilege should survive the death of the client in all cases, and to report back to the Legislature by January 1, 2009.
- [AB 341 \(Spitzer\)](#) – Sponsored by the Trusts & Estates Section. Establishes, to the extent possible, a uniform regime for the treatment of creditors' claims regardless of whether the decedent utilized a will or revocable trust as the primary estate planning instrument, while still preserving the substantive distinction between a probate proceeding and a trust administration for creditors.
- [AB 861 \(Tran\)](#) – Sponsored by the Family Law Section. Revises the interim economic protections between a marital dissolution judgment and a subsequent final property settlement by providing the court with a wider range of protection methods in the event that there is a problem before final property distribution and by focusing on problem avoidance.
- [SB 183 \(Corbett\)](#) – Sponsored by the Trusts & Estates Section. Gives a decedent's intestate heirs or other "interested persons," as

specifically defined, standing to prosecute or continue a elder abuse lawsuit if there is no personal representative or the personal representative of the decedent fails to commence or maintain an elder abuse action.

- [SB 415 \(Harman\)](#) – Sponsored by the Family Law Section. Eliminates the so-called "change of circumstances" courthouse hurdle in family law cases where a child support order has terminated due to the age of the child.

Four other bills sponsored by the sections in 2007 -- [AB 189 \(Dymally\)](#), [AB 316 \(Spitzer\)](#), [AB 1679 \(Evans\)](#), and [SB 294 \(Ackerman\)](#) -- are still under consideration, and will be revisited when the Legislature reconvenes in January. The sections also have developed [eight new legislative proposals](#) for introduction in January 2008, subject to approval by the State Bar's Board of Governors.

DOYLE TO LEAVE BAR FOR PRIVATE PRACTICE

As has been previously reported, Larry Doyle, the State Bar's longtime Chief Legislative Counsel, will leave his job here in the Office of Governmental Affairs on November 2 to practice trusts and estates law with the Legacy Law Group, a private Sacramento firm.

Doyle has served the Bar since 1989. In addition to effectively advocating on behalf of the Bar and its voluntary sections, Doyle has been the chief editor of the "Sacramento Scene."

The Office of Governmental Affairs is deeply grateful for having worked with Doyle and we sincerely thank him for having served the Bar so well for so long. We have certainly enjoyed having him as a colleague and friend, and we wish him well.



Doyle

DEADLINES UPCOMING

- [January 7, 2008 \(Monday\)](#) – Legislature reconvenes for 2nd year of 2007-08 Legislative Session.
- [January 31 \(Thursday\)](#) - Last day for two-year bills to clear house of origin. Bills failing to meet deadline die by operation of the constitution.