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TRANSITIONING TO GOVERNOR SCHWARZENEGGER

The successful recall of Governor Gray Davis on Tuesday, October 7, and the election of Arnold Schwarzenegger as his successor, raise a number of questions about the timing of the transition from one administration to the other.

When does the transition take place? The recall of Governor Davis is effective upon certification of the vote by Secretary of State Kevin Shelley. Shelley has a maximum of 39 days from the election in which to do this (November 15). However, given the large margins by which Davis was recalled and Schwarzenegger elected, the process almost certainly will take less time.

When do the Governor's staff lose their jobs? Those employees who serve at the pleasure of the Governor (which are virtually all) can be dismissed as soon as the new Governor assumes office. Most high-ranking staff likely will be dismissed immediately. Staff in less sensitive positions may be retained for a period of time (or, in very rare cases, asked to stay) in order to keep office operations running smoothly.

What happens to the bills currently awaiting the Governor's signature? The fate of all of those measures – roughly 200 at press time -- lies with Governor Davis, who has until midnight, Sunday, October 12, to sign or veto them. Governor-elect Schwarzenegger has asked Davis not to sign any more bills into law, but the request almost certainly will be ignored. Those bills the Governor does not act upon become law without the Governor's signature.

What about gubernatorial appointments not yet confirmed by the Senate? Governor Davis may continue to make appointments – both judicial and otherwise -- until he leaves office, and is continuing to do so, notwithstanding Governor-elect Schwarzenegger's request that he cease. Schwarzenegger may withdraw the appointment of any official who serves at the pleasure of the Governor, but an appointee for a specified term of office may serve out that full term. Appointees who require Senate confirmation may be withdrawn by the new governor at any time prior to their confirmation. For this reason, Senate President pro Tem John Burton may re-convene the Senate to confirm Governor Davis's deathbed appointments before Schwarzenegger takes office.

LAWYERS 8, ACTORS 2

Arnold Schwarzenegger is only the second non-lawyer to be elected Governor in California since Frank Merriam, who held the post during the Great Depression (1934-1939).

The other non-lawyer elected Governor during this 65-year period also was the only other actor to hold the post, Ronald Reagan (1967-1975). Reagan was also the only California Governor elected president of the United States, a feat the Austrian-born Schwarzenegger is currently barred from matching.

JUDGE'S RULING SUPPORTS PERATA QUEST TO EXTEND SENATE TERM

An Alameda County Superior Court judge has issued a ruling saying that Majority Leader [Don Perata](#) (D-Oakland) can run for another term in the state Senate.¹ Absent an unlikely appeal, the ruling clears the way for Perata to seek the post of President pro Tem of the upper house when the current occupant, Senator [John Burton](#) (D-San Francisco), is termed out at the end of 2004.

Perata has been involved in a war of opinions with Assem. [Wilma Chan](#) (D-Oakland), who would be a clear front-runner to succeed Perata were he to be termed out in 2004. State Senators are limited to two four-year terms of office, but service of less than half a term does not count towards the limit, while service of more than half a term counts as a full term. Perata was elected in November 1998 to fill the unexpired Senate term of now-Congressperson Barbara Lee (D-Oakland). He was sworn into office that December.

The question before the court was when the clock began to run on Perata's first term. If it began with his November election, as Legislative Counsel [Diane Boyer-Vine's](#) office has opined, Perata would have served more than half of Lee's term and therefore would be termed out in 2004. If it began with his December swearing-in, as Attorney General Bill Lockyer's office has opined, Perata would have served less than half of Lee's term and therefore would not be termed out of the Senate until 2008.

Besides Chan, persons with a stake in the outcome of the judge's decision include Senators [Martha Escutia](#) (D-Whittier), [Sheila Kuehl](#) (D-Santa Monica), and [Tom Torlakson](#) (D-Antioch), all of whom are candidates for President pro Tem.

¹ See *Muir v. Clark* ([RG03112607](#)) on the Alameda County Superior Court web site.