

# State Bar of California, Office of Governmental Affairs

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### OLD BILLS – NEW PACKAGES

A number of the bills introduced last week either resurrected past proposals which either failed passage in the Legislature or were vetoed by former Governor Gray Davis, or engaged an old issue from a slightly different direction. Some of the key bills of interest to attorneys include:

[SB 1655 \(Kuehl\)](#) – Would provide that all opinions of the Supreme Court, a court of appeal, or an appellate department of a superior court may be cited by any court for any persuasive value they may have (although opinions issued on or before the effective date of this bill that have not been certified for publication in the official reports shall have no precedential effect). Would further require that all opinions of the Supreme Court, a court of appeal, or an appellate department of a superior court issued on or after the effective date of this bill be made available to public and private reporting services, electronically and without cost.

This proposal resurrects the substance of [AB 1165 \(Dymally\)](#) of last year, which was defeated in the Assembly Judiciary Committee and died January 31 by operation of the Constitution.

[AB 2369 \(Correa\)](#) and [AB 2604 \(Pacheco\)](#) – Would make numerous changes to the state's Unfair Competition Law, generally restricting the ability of private individuals to bring suit under the law unless certain conditions are fulfilled.

Successors to last year's [AB 69](#) and [AB 102](#) by the same authors, the two bills join [AB 95 \(Corbett\)](#) and [SB 122 \(Escutia\)](#), the only two bills remaining from last year's onslaught of 12 UCL related measures, as legislative attempts to address recent abuses of the law. Proponents of many of the other measures have shifted their support to an [initiative](#) sponsored by the California Chamber of Commerce and Civil Justice Association of California, which would virtually eliminate the right of individuals to sue on behalf of the general public under the UCL. The [initiative](#) is in the signature-gathering stage, aimed at the November ballot.

[AB 2713 \(Pavley\)](#) -- Would authorize an attorney who, in the course of representing a governmental organization, learns of improper governmental activity to refer the matter to a higher authority in the organization and, if that effort is not successful, or if the attorney

believes the action would be futile, would authorize the attorney to refer the matter to law enforcement or to another governmental agency. Would exempt the attorney from disciplinary action for making such a referral.

Duplicates the provisions of [AB 363 \(Steinberg\)](#), which was approved by the Legislature in 2002 but vetoed by then-Governor Davis. Davis's veto message called the bill "well-intentioned," but said that "it chips away at the attorney-client relationship which is intended to foster candor between an attorney and client . . . The effective operation of our legal system depends on the fundamental duty of confidentiality owed by lawyers to their clients."

### WORKERS' COMPENSATION REFORM

The Legislature will not be able to accommodate Governor Schwarzenegger's request to send him workers' compensation reform legislation by March 1. To date, only the Senate Labor and Industrial Relations Committee has taken formal action on any of the 30 bills introduced into the 4th Extraordinary Session on Workers' Compensation Reform.

The Assembly Insurance Committee, which has jurisdiction over workers' compensation bills in the lower house, has limited its activities to informational hearings of a variety of workers' compensation-related issues. The committee has not set a formal hearing date for any of the 15 Assembly bills pending in the extraordinary session.

The Senate Labor and Industrial Relations Committee on Wednesday took testimony on four extraordinary session measures, including [SB4X 9](#), which is authored by the committee's chair, Senator [Richard Alarcon](#). The committee took formal action on only that one measure, passing it out on a 5-2 vote. The bill has been referred to the Senate Appropriations Committee.

SB4X 9 is not being touted as a reform measure; rather, it has been described as a bill that would make technical and clarifying changes for the proper implementation of last year's workers' compensation reforms.

Although the Senate Labor and Industrial Relations Committee took testimony on three other measures, it opted to set those bills for further hearing on an unspecified date.