

LEGISLATURE AND “SACRAMENTO SCENE” RETURN

The State Senate returned from its month-long summer recess on Monday, August 5, re-joining the Assembly which had never left town due to its inability to reach agreement on the state Budget.

Back at full strength, the Legislature launched into a series of extended committee hearings, deciding the fate of roughly 1,200 bills that must be acted upon by August 31.

UNDERSTANDING WHAT “END OF SESSION” MEANS

To alleviate confusion about what the August 31 “end of session” deadline does – and does not – mean, Greg Schmidt, Secretary of the state Senate, recently circulated the following information to Senate staff:

“In these perilous times, a number of people have made inquiries regarding the end of the session and what may or may not be done after the August 31 adjournment date. The following is provided for your edification.

“The actual day the 2001-02 Session ends is November 30, 2002. That is the date of adjournment sine die. The August 31 date is set by Joint Rule 51(b)(3) as the beginning of the Final Recess. . . to accommodate the provisions of the Constitution which give the Governor one month to sign bills and the public 90 days to review them, for purposes of potential referendum, prior to their January 1, 2003, effective date. All regular bills, therefore, must be passed by August 31.

“Urgency bills, statutes calling elections, tax levies, or ‘appropriations for the usual current expenses of the state,’ can be taken up and passed after the August 31 deadline because they go into effect immediately and are not subject to referendum. However, they must be sent to the Governor by November 15, providing twelve days for him to sign or veto and three days for the Legislature to consider an override.

“Bottom line: a budget bill may be taken up and passed any time after August 31 but no later than November 15 without any need for a special session. Urgency bills may be taken up. Tax levies may be taken up.

“And if, after all this, everyone decides that enough is enough, special elections may be called as necessary. “

**PUBLIC ATTORNEY
‘WHISTLEBLOWER’ BILL MOVES**

The Senate Judiciary Committee Tuesday approved (4-1) a further amended version of Assm. [Darrell Steinberg’s](#) bill ([AB 363](#)) to provide attorneys representing governmental agencies guidance and limited protection from attorney discipline when they find and seek to “blow the whistle” on improper governmental activity.

Steinberg introduced AB 363 in 2001 in response to the problems faced by Department of Insurance attorney Cindy Ossais when she sought to bring to light improper activities in the department that eventually led to a legislative investigation and the resignation of then-Commissioner Chuck Quackenbush. Although Ossais was not disciplined by the State Bar for

her actions, the Assembly Member was concerned that neither California law nor the Rules of Professional Conduct provided adequate guidance to attorneys faced with a similar dilemma.

The bill was put on hold for over a year as Steinberg agreed to work with the State Bar and its Committee on Professional Responsibility and Conduct (COPRAC), along with numerous others, to address the issue through amendment to the Rules of Professional Conduct ([3-600](#)). In May, however, the California Supreme Court declined to adopt those amendments, in a one-sentence [denial](#) pointing out that they would conflict with current statutory law, and leading Steinberg to once again seek a legislative solution.

As amended, AB 363 would specify steps that an attorney representing a governmental agency must take before he or she may reveal confidential client information concerning improper governmental activity, as defined, to a law enforcement agency or other governmental agency charged with overseeing or regulating the matter without fear of disbarment or other attorney discipline.

The bill now goes to the Senate Floor.

BUDGET UPDATE - NOT LOOKING GOOD!

40 days after the Constitutional deadline, California is still without a budget for fiscal year 2002-03. Now in addition to the massive deficit of about \$24 billion comes more bad news.

On Wednesday, August 7, the Governor's Department of Finance sent a "Budget Letter" (BL) to all agency secretaries (these are the people in the Governor's cabinet), department directors, and departmental budget officers and accounting officers that stated: "...this BL contains the

instructions and forms for all Agency Secretaries and independent Department Directors to propose spending reduction plans for the 2003-04 fiscal year. The plans must contain proposals to achieve at a minimum a 20-percent expenditure reduction for each of State Operations and Local Assistance based on 2002-03 expenditures in [AB 425](#) (as amended on June 29, 2002). These reductions plans apply to General Fund and selected non-General funds." Summary level reduction plans must be submitted to the Department of Finance no later than September 13, 2002. (Note: [AB 425](#) is the Budget Act.)

With respect to getting a budget bill passed by the Assembly, things are not looking good there either. Although the Senate passed the budget bill on June 29, the Assembly Democrats have not been able to pick up the necessary four Republican votes needed for a two-thirds majority vote to pass the bill.

Two attempts this week by Assembly Democrats to break the logjam, including a proposal to increase the state's cigarette tax to \$3.00/pack, both failed to win any Republican votes.

And to make things even worse, several Assembly Democrats have stated that there is a good chance they will not vote for the budget bill.

IMPORTANT LEGISLATIVE DATES

- **August 16** - Last day for fiscal committees to meet and report bills to Assembly or Senate floor.
- **August 19 - 31** - Floor sessions only. Only conference committees can meet during this time.