



THE CAPITOL CONNECTION

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LEGISLATIVE CALENDAR:

Last day for each house to pass bills
August 31

Last day for Governor to sign or veto bills
September 30

EXCLUSIVE:

INTERVIEW WITH DREW LIEBERT



Since 1996, Drew Liebert has been the Chief Counsel to the Assembly Judiciary Committee. In that time, he has been involved in the Legislature's consideration of virtually every bill affecting California's civil justice system. Previously, he worked as a private attorney, a lobbyist, and a consultant to former State Sen. Gary Hart. He received his law degree from UC Berkeley Boalt Hall School in 1984.

The Capitol Connection recently caught up with Mr. Liebert and asked him to share his thoughts on the Legislature, the Judiciary Committee and other aspects of life "in the building."

CC: What is the role of a standing committee, such as the Assembly Judiciary Committee, in the legislative process?

DL: One is the key policy role of making the initial policy determinations about legislation. In the case of the Judiciary Committee, we have an incredibly broad jurisdiction pertaining to all substantive and procedural civil justice matters. But evaluating the merits of particular policy proposals is just the tip of the iceberg of the policy committee's many important roles.

The second key role is the responsibility of legislative prioritization, clarification, and distillation. The committee's Chair and Vice-Chair, along with the other Committee members, work closely with their counsel to determine which policy issues are most important to address. In addition, the Chair and Vice Chair instruct counsel about how to try to improve the drafting of the various measures before the Commit-

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CHILD SUPPORT PROGRESS REPORT

By Curtis L. Child

Editor's note: August is Child Support Awareness Month in California.

California's child support program – the nation's largest, serving two million families – has had a troubled history, with critics ranging from the State Legislature and independent auditors to child support advocates and families. The program had been operated independently by 58 county district attorney offices, with little state oversight. It did not serve families in a fair and consistent manner. The state's first attempt to develop a statewide automation system was a costly failure. These factors all contributed to unacceptably low child support collections.

Reform Legislation

A number of important steps to improve the child support system in California have been undertaken in recent years. In 1996, legislation was enacted establishing the child support court commissioner and family law facilitator systems to facilitate the courts' handling of child support (AB 1058, ch.957 Stats. 1996). In 1999, the Legislature passed and Governor Gray Davis signed groundbreaking child support reform legislation to overhaul the program. The legislation established the California Department of Child Support Services (DCSS) and charged it with restructuring the program and overseeing a state directed, locally delivered child support program uniformly across the 58 counties. I was appointed by Gover-

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CHILD SUPPORT PROGRESS REPORT

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nor Davis to head the new department and lead the reform efforts.

Policy Development

The new department faced considerable challenges that required simultaneous attention, beginning with development of uniform policies and procedures to govern the program. DCSS created the Policies, Procedures and Practices Project (P3), a collaborative process to develop policy recommendations on a broad variety of child support issues. The project involved over 130 participants from the gamut of child support stakeholders; it included six public forums and generated over 300 recommendations.

With these recommendations, DCSS began the monumental task of developing regulations governing all aspects of the child support program. As with the P3 Project, DCSS consults with the child support community at large, including advocates and the judiciary, before finalizing the regulations. Nine regulations packages are now in place and all key regulations are scheduled to be adopted by October 2002. For the first time ever, these detailed program regulations provide the direction to local program administrators necessary to ensure a uniform statewide program.

Transitions and Automation

California's child support program successfully completed a major milestone on July 1, 2002 with the transition of all local programs from district attorneys' offices to independent local child support agencies (LCSAs) operating under the leadership of DCSS. The local program transitions – finished six months ahead of schedule, with no disruption in services and with annual program savings of over \$13 million – have been a complete success in focusing the child support program on family self-sufficiency while at the same time using law enforcement remedies when appropriate.

In addition, DCSS, in partnership with the Franchise Tax Board, is developing the California Child Support Automation System (CCSAS) as the single, statewide automation system. Developing the statewide system at the same time the child support program is being restructured presents a unique opportunity to construct an automated system that will efficiently support the redesigned program. DCSS anticipates entering into the contract for development and implementation of CCSAS by Spring of 2003. In the interim, DCSS has converted the LCSAs from 30 automation systems into one of six federally-approved interim systems.

Customer Service

From its inception, DCSS has made customer service a top priority, giving each LCSA a special allocation for customer service initiatives, including an Ombudsperson program to help customers navigate the child support system. In addition, the reform legislation created a complaint resolution process to resolve customer complaints within 30 days and an administrative hearing process for customers whose complaints are still not resolved satisfactorily. These programs are fully implemented and operating successfully across the state.

DCSS conducted a statewide customer service satisfaction survey of both custodial and noncustodial parents in every county in California. The survey, which establishes baseline information on customer satisfaction, will help each LCSA develop a comprehensive customer service program tailored to local needs.

Continually striving for performance improvement is now a way of life for California's child support program. This commitment to excellence has helped boost collections to record levels – now over \$2 billion a year – even in the midst of the program restructuring.

Curtis L. Child is the Director of the California Department of Child Support Services.

LEGISLATIVE REVIEW

The end of the 2001-2002 Legislative Session is drawing near. Here is an update on bills of interest to the courts:

CIVIL AND SMALL CLAIMS

AB 3027 (Committee on Judiciary) – Civil procedure

Requires a party demanding a jury to deposit jury fees at least 25 days before trial and requires each party demanding a jury

trial to pay jury fees and mileage at the beginning of the second and each succeeding day's session; provides that service of opposition and reply papers in a summary judgment motion be served in accordance with Code of Civil Procedure section 1005; provides exemption from liability for private contractors who serve as small claims advisors; extends the time prior to a hearing that a notice of small claims action must be served on the defendant; provides that a request for postponement of a

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LEGISLATIVE REVIEW

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small claims hearing be for good cause; authorizes a superior court, by local rules, to designate the nearest or most accessible location for the trial of specified cases, and to provide for the transfer of cases to the proper location in the county.

JC Position: Sponsor

Status: Senate Floor

AB 3036 (Corbett) – Guardianship of minors: annual status reports

Requires the clerk of the court to annually mail to each guardian a blank status report form and a notice informing the guardian that he or she is required to complete and return the status report. Requires the court to order the court investigator to serve notice upon the guardian to make himself or herself available to the investigator for purposes of investigation of the guardianship, or to show cause why the guardianship should not be terminated, if the status report is not completed and returned.

JC Position: Oppose unless amended and funded

Status: Senate Appropriations Committee

CRIMINAL LAW

AB 2211 (Horton) – Criminal procedure: sentencing: Community Impact Statement

Provides that a representative of the community affected by a misdemeanor may submit a Community Impact Statement in the same manner that a victim may submit a victim impact statement pursuant to Penal Code Section 1191.1.

JC Position: Oppose

Status: Senate Floor

AB 2899 (Migden) – Homeless courts

Creates the Homeless Court Pilot Project to operate in three counties and a third selected by the Judicial Council. Requires the Judicial Council to develop and promulgate procedures and guidelines for homeless courts.

JC Position: Support

Status: Senate Appropriations Committee

SB 1497 (Polanco) – Parole: life prisoners: review by three-judge panel

Sets up a one-time review of the custody status of life prisoners who have been in prison beyond a date specified in certain regulatory matrices. Requires a three-judge panel from the sentencing jurisdiction to consider various matters as to each prisoner qualifying for the review, and either order the immediate release of the prisoner, set a fixed parole date, or order the inmate to remain in custody, pending the hearing process of the Board of Prison Terms.

JC Position: Oppose

Status: Assembly Appropriations Committee

SB 1793 (Burton) – Youthful offenders

Eliminates the Youthful Offender Parole Board and consolidates the duties of the board in local probation departments and the juvenile court. Authorizes the juvenile court to recommend

a treatment program for a ward and requires the court to conduct an annual progress review hearing regarding the ward.

Status: Assembly Appropriations Committee

DOMESTIC VIOLENCE

AB 2030 (Goldberg) – Protective orders: service of process

Provides that there shall be no fee for service of process in proceedings under the Domestic Violence Prevention Act and other specified proceedings. Allows the sheriff to submit billings to the court for reimbursement of the cost of serving process in these proceedings

JC Position: Oppose unless funded

Status: Senate Appropriations Committee

SB 1627 (Kuehl) – Protective orders

Revises existing law to require a law enforcement agency to enter proof of service of protective order served by the agency into the Domestic Violence Restraining Order System. For orders not served by law enforcement, the court would be required to either enter the proof of service in the system or send a copy of the proof to law enforcement for entry.

JC Position: Support

Status: Governor's desk

JUDGES

AB 1698 (Committee on Judiciary) – Conversion of vacant subordinate judicial officer positions

Provides for the conversion of eligible subordinate judicial officer (SJO) positions into judgeships.

JC Position: Sponsor

Status: Senate Judiciary Committee

AB 2065 (Nakano) – Confidentiality of home addresses

Provides that an assessee may request in writing that property address information maintained by the assessor, but not required to be part of the assessment roll, be made available for internal purposes and not subject to public disclosure. Authorizes the assessor to impose a fee for the actual costs of performing his or her duties under this subdivision.

JC Position: Co-sponsor with California Judges Association

Status: Senate Revenue and Taxation Committee

AB 2879 (Strom-Martin) – Judges' retirement and assignment

Allows a judge to designate a beneficiary other than his or her spouse to receive the non-community property portion of his or her retirement benefit upon the judge's death; provides that in certain situations a judge who dies while in office with 20 years of service is deemed to have met the requisite age regardless of his or her actual age at the time of death; conforms the compensation of a retired judge assigned to an appellate court with that of a retired judge assigned to a trial court; in the event of the death of both the judge and the spousal survivor, provides a return of undistributed employee contributions and interest to the estate.

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LEGISLATIVE REVIEW

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JC Position: Co-sponsor with the California Judges Association

Status: Senate Appropriations Committee

JURIES

AB 1970 (Matthews) - Juries: peace officer exemptions

Exempts parole officers, probation officers and correctional peace officers from jury service.

JC Position: Oppose

Status: Senate Public Safety Committee

AB 2925 (Migden) – Juror mileage reimbursement

Eliminates the reimbursement of mileage for the first day of jury service and increases the rate reimbursement rate to 34 cents per mile, one way.

JC Position: Support

Status: Signed by Governor

TRIAL COURT FUNDING AND ADMINISTRATION

AB 2690 (Cardoza) - Court financial statements: audits

Requires the Judicial Council to select 5 courts to participate in a pilot project to prepare and transmit to the Bureau of State Audits an annual financial statement showing the status of the fines, forfeitures, penalty assessments, and civil assessments imposed for failure to appear.

JC Position: Oppose

Status: Senate Appropriations Committee

AB 2321 (Hertzberg) – Tort Claims Act

Clarifies the procedure for presenting claims against the trial courts, Courts of Appeal, the Supreme Court, the Judicial Council, and the Administrative Office of the Courts.

JC Position: Sponsor

Status: Assembly Concurrence

AB 3028 (Committee on Judiciary) – Court operations

Eliminates “loss of hearing” as a basis for general disqualification of a prospective juror. Provides the court with needed flexibility and consistency in issuing and re-issuing protective orders, and conforms procedures in the family and juvenile courts.

Clarifies the ability of counsel to receive relevant reports and have access to court files. Permits the Chief Justice of California to designate a deputy to represent the Chief on a state board, commission, or committee. Repeals a fee for a cross complaint or amended cross complaint, consistent with changes made in the Trial Court Funding Act of 1997. Permits courts to hold sessions outside of the county, pursuant to rules of court and with parties’ consent in criminal cases. Makes clarifying, nonsubstantive changes relating to the disqualification of an arbitrator. Permits the judicial branch to offer a “golden handshake,” consistent with the legislative and executive branches. Provides a 2% pay increase to PJs in courts with four or fewer judges. Permits the Judicial Council to pay bills directly for statewide trial court services. Allows courts to recoup costs of guardianship and conservatorship investigations.

JC Position: Sponsor

Status: Senate Appropriations Committee

SB 1732 (Escutia) – Trial court facilities

Implements the recommendations of the Task Force on Court Facilities regarding the transfer of responsibility for trial court facilities from the counties to the state.

JC Position: Co-sponsor with the California State Association of Counties

Status: Assembly Appropriations Committee

SB 1396 (Dunn) – Court security

Clarifies allowable court security costs.

JC Position: Co-sponsor with the California State Sheriffs’ Association

Status: Assembly Floor

SB 2011 (Burton) - Workers compensation

Allows the trial courts to “self insure” like other state agencies; establishes a Judicial Branch Workers Compensation Fund.

JC Position: Sponsor

Status: Assembly Floor

Status Chart of Pending Legislation

Looking for Judicial Council positions on legislation? The Office of Governmental Affairs prepares a chart after each Policy Coordination and Liaison Committee (PCLC) meeting showing the status of legislation on which the PCLC has adopted a position. The chart provides details such as the source of the bill, and the bill's current status in the Legislature. The bills are listed in numerical order and indexed by subject. To get a copy of the status chart visit us on the web at <http://www.courtinfo.ca.gov/courtadmin/aoc/oga.htm>.

RIPPED FROM THE HEADLINES

“Ripped From the Headlines” highlights news stories of interest including headlines and lead paragraphs, without editorial comment from *The Capitol Connection*.

“U.S. Docks State \$18 Million in Foster Care Flap – Federal officials say California isn’t holding relatives and non-relatives to same standards for homes. But state insists that it is.” *Los Angeles Times* (July 10, 2002)

A dispute between state and federal governments over how California screens foster parents will cost the state more than \$18 million in grants, according to federal officials, and could eventually drain hundreds of millions of dollars from state coffers.

The federal government maintains that California has yet to implement a 2-year-old federal mandate that relatives be held to the same standards as professional foster parents to receive federal grants to care for foster children in their homes.

California has insisted that it always met the rule, because it tests both kinds of caretakers for health and safety concerns, even though the actual requirements may vary between the groups.

“Judges, Lawyers Serving More Often as Jurors, Superior Court Survey Finds” *Metropolitan News-Enterprise* (July 12, 2002)

Lawyers and judges in Los Angeles County are now pulling their weight on juries, answering the call at the same rate as the general population, the Los Angeles Superior Court reported yesterday.

Superior Court Presiding Judge James Bascue said the numbers show that no special treatment or excuses from jury duty are being given to people who work in the courts.

“This analysis underscores the reality that we are approaching true equity in jury service in Los Angeles County, and that is notable,” Bascue said. “We have reached a point where citizens from all walks of life report for jury service and sit on juries.”

“Governor Signs Bill Increasing Juror Mileage Payment” *Metropolitan News-Enterprise* (July 15, 2002)

Gov. Gray Davis on Friday signed a bill increasing the mileage reimbursement for jurors by 19 cents, but eliminating reimbursement for a juror’s first day of duty.

The per mile increase from 15 cents to 34 cents was intended to cut down on wasteful administrative costs and increase reimbursements to jurors.

The value of mileage reimbursements – which often comes out to less than a dollar for one day of jury duty – was less than the cost of the actual check.

The cost of a check is difficult to pinpoint because it varies by county, according to Assemblywoman Carole Migden’s office. Considering the costs of labor, paper, printing, equipment depreciation and postage, “at the very least it probably costs \$1.10” for each check, Migden spokesman Alex Ponce de Leon said.

“Officials Institute Jury Duty Reforms” *Los Angeles Daily News* (July 21, 2002)

Los Angeles residents may be called to jury duty more often under the newly established one day, one trial system, but at the same time officials have made it more difficult to get out of serving.

As part of those reforms, officials are clamping down on one of the most commonly used excuses to get out of jury duty, financial hardship, said Superior Court spokesman Kyle Christopherson.

“We’re just not letting people go on financial hardship like we used to,” Christopherson said. “It’s just not possible; we’d run the well dry.”

“Panel Rips Fees – and Parties – in Smog Case” *The Recorder* (July 23, 2002)

A state appeal court on Monday upheld a ruling vacating \$88.5 million in attorney’s fees in a huge case over smog-impact fees, saying the award was an unconstitutional gift of public funds.

The ruling by Sacramento’s Third District Court of Appeal orders a new arbitration at which the award, if any, cannot exceed about \$18.2 million, plus 10 percent interest over the last four years.

In a separate concurrence signed by all three justices on the panel, Justice Richard Sims III showed disdain for both sides in the case – the attorneys for living in an “unreal world of greed” and the state for readily breaching an arbitration agreement as soon as “the political stuff hit the fan.”

“Securities Industry Arbitrators Sue Over Ethics Rules; NYSE, NASD Bodies Refuse to Comply” *San Francisco Chronicle* (July 23, 2002)

The national organizations that handle investor complaints against stockbrokers have refused to comply with California’s tough new ethics rules for arbitrators, arguing in a federal lawsuit filed Monday that their own standards are strict enough to protect the public from conflicts of interest and other ethical problems.

But supporters of the standards say there is no reason to exempt those organizations when all other arbitrators and arbitration firms must abide by the rules.

“I am extremely disappointed and saddened for California investors that the NYSE and NASD have chosen to put themselves above the law,” said state Sen. Martha Escutia, D-Montebello, who sponsored the law requiring the Judicial Council of California, the administrative arm of the courts, to create the new rules.

“3 Strikes’ Reductions Can Be Appealed – Prosecutors’ right to challenge rulings may cost repeat felons time” *San Francisco Chronicle* (July 26, 2002)

In a decision that could boost the number of “three-strikes” cases, the California Supreme Court ruled Thursday that the prosecutors can challenge a judge’s decision to reduce a fel-

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RIPPED FROM THE HEADLINES

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only charge, a potential “strike,” to a misdemeanor.

By providing prosecutors with a powerful check on that authority, the ruling limits a judge’s ability to bypass the hard-hitting sentencing law.

By a 5-2 vote, the high court found that when a trial judge reduces a “wobbler” crime from a felony to a misdemeanor, prosecutors have the right to appeal the decision.

“Judges’ Pension Checks Are in the Mail – After announcing the monthly payments would be withheld because of the budget crisis, the state relents” *Daily Journal* (July 31, 2002)
California’s retired judges and their beneficiaries will get their August pension checks after all, despite the state’s budget impasse, the state controller’s office announced Tuesday.

The decision to release the funds came after warnings from the Administrative Office of the Courts that failure to do so would violate the “vested contract rights” of retired jurists.

Last Thursday, California Public Employees’ Retirement System chief James E. Burton told California’s retired judges they would not get their August checks because of the budget deadlock. In the meantime, Burton suggested in his letter, they could apply for low interest loans.

AOC director William Vickrey fired off a letter to state Controller Kathleen Connell the next day, asserting that under state law public employees’ pensions are an “integral element of compensation and a vested contractual right.”

Tuesday, Richard J. Chivaro, chief counsel for the controller’s office, agreed with Vickrey that payment of the pensions is “legally required.”

“Court Allows Full Viewing of Executions” *Los Angeles Times* (August 3, 2002)

Witnesses have a constitutional right to observe executions in their entirety, from the moment the condemned inmate enters the death chamber to the time he is declared dead, a federal appeals court ruled Friday.

The U.S. 9th Circuit Court of Appeals held that a California state prison rule, which limits media access to the period after the condemned inmate is strapped to a gurney and needles are inserted in his arms, “unconstitutionally restricts the public’s 1st Amendment right to view executions.”

The court said prison official’s arguments that unfettered viewing could endanger guards were an “exaggerated unreasonable response” to legitimate safety concerns.

“SLAPP Ruling Curtails Malicious Prosecution” *Daily Journal* (August 5, 2002)

In a ruling that could curtail malicious prosecution suits drastically, the state’s high court has held that a trial judge’s denial – under the anti-SLAPP statute – of a motion to strike in an underlying case bars malicious prosecution because it gives probable cause for the original case.

“Lawmaker Lobbies for Foster-Care Reform” *Daily Journal* (August 5, 2002)

A federal lawmaker, angered by problems in Los Angeles County’s child protective system, announced Friday that she plans to lobby the California Legislature personally to pass a law that would make social workers criminally liable for falsifying information in court reports.

“I will provide representation in the halls of the Legislature to give children the help they don’t get,” Congresswoman Maxine Waters, D-Los Angeles, said. “And I will get legislators to put money in the legislation for enforcement.”

Waters, who met with parents and a smattering of news reporters at the Gardena home of a mother whose child died in foster care, said her campaign to change state law would begin immediately.

“Committee OK’s State Version of ‘Atkins’ Ruling – The U.S. Supreme Court, in prohibiting the execution of the retarded, asked states to pass laws to enforce the ban” *Daily Journal* (August 7, 2002)

A new state measure that would implement the U.S. Supreme Court’s decision banning execution of the mentally retarded cleared a key hurdle Tuesday and appears on track to pass the Legislature.

In its June ruling in *Atkins v. Virginia*, the high court held that executing mentally retarded individuals is cruel and unusual punishment prohibited by the Eighth Amendment. But the justices left to the states the task of developing ways to enforce that restriction.

AB 557, introduced by Assemblywoman Dion Aroner, D-Berkeley, lays out standards and procedures for courts to use in determining whether defendants are mentally retarded.

“Panel Approves Whistle-Blower Protection Bill” *Daily Journal* (August 8, 2002)

Safeguards for lawyers who rat out egregious governmental wrongdoing moved one step closer to reality this week with the Senate Judiciary Committee’s approval of the Whistle-blower Protection Bill.

AB 363 – spurred by the case of Cindy Ossias, a Department of Insurance attorney who reported the misdeeds that led to former Insurance Commissioner Chuck Quackenbush’s resignation – would enable government attorneys to report serious wrongdoing by their bosses without worrying about losing their jobs or bar licenses.

The committee’s approval comes less than six months after the state Supreme Court vetoed a similar rule proposed by the State Bar. The court was concerned the rule conflicted with a stringent state code requiring lawyers to protect clients’ secrets. The bill, sponsored by Assemblyman Darrell Steinberg, D-Sacramento, alleviates the high court’s concerns, Steinberg said.

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RIPPED FROM THE HEADLINES...

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“Davis to Agencies: Brace for More Cuts – Governor’s order may cause layoffs, elimination of programs, say officials”

Oakland Tribune (August 8, 2002)

As lawmakers remained deadlocked Wednesday over billions in tax hikes and state government cuts this year, the Davis administration quietly ordered agencies to plan on slashing another 20 percent in spending for the coming 2003-04 fiscal year.

The jarring directive – which officials said will likely force an overhaul of state government, layoffs and elimination of entire programs – marked a dramatic acknowledgement of forecasts that California faces multibillion-dollar shortfalls, such as borrowing and fund transfers, in order to reduce the deficit in the current fiscal year.

“Trailers’ Let Lawmakers Skirt Scrutiny – Pet projects hidden in unrelated bills result in debacles like the energy crisis” *Orange County Register* (August 9, 2002)

Every year many changes appear in the budget and its accompanying legislation – known as “trailer bills” – even though many of the policies aren’t vital to enact the state’s master spending plan. The non-sequitur proposals are sandwiched between real budget-enacting language and usually obscured in legalese.

Trailer bills are a backdoor way into the state’s codebooks because they don’t go through normal policy hearings in which the

public participates in the debate. Instead, it’s all done in the budget committee, often late at night.

“The so-called budget trailer bill process is a fairly outrageous assault on the legislative process,” said Fred Silva, policy analyst for the San Francisco-based Public Policy Institute and for 12 years chief aide on budget issues for the Senate leader.

Such provisions wind up in the budget during the wee hours of the morning during the hurly-burly of the budgeting process as legislative staffers gather up suggestions called out by lawmakers on the budget committee and write them up.

They are passed into law by a Legislature that has its eyes on the big issue – the tens of billions of dollars in the main budget.

“An interest group can hide behind a budget trailer bill, (and say), ‘I don’t have to suffer the indignities of my proposals in a policy committee,’” Silva said. “It’s done in the middle of the night. ... There’s so much stuff and so much noise that nobody sees it.”

But Sen. Richard Polanco, D-Los Angeles, would argue the other way. Each year, departments must rejustify their budgets. It’s also a time to review their policies – and alter them, if need be, said his aide, Chris Flammer.

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tee, including deciding what, if any, amendments are advisable should the Committee support the underlying policies proposed.

Finally, standing committees play a critical political role. After all, the Legislature is both a public policy and a political institution, reflecting the will of the voters. The standing committees therefore serve the key role of helping to reflect and further the majority will of the House on particular public policy issues.

CC: What is the Chief Counsel’s role?

DL: I’ve always felt that the Chief Counsel of the Judiciary Committee has one of the most interesting jobs an attorney could ever wish for, because she or he has so many interesting and challenging hats to wear.

The Chief Counsel’s role is first and foremost to fulfill the priorities of the Committee Chair, and of the majority party. Many people don’t realize this, but the chief consultants of the policy committees have a political hat to wear because they serve at the pleasure of the Committee Chair and the leadership of the House. This is simply a

reflection of our democratic process whereby the party in power has both political power and accountability. As Chief Counsel of the Judiciary Committee, my job is to “implement the vision” of the majority party. It is a vision I share, and I feel really lucky to be able to help try to make it a reality day in and day out.

But that’s only part of the Chief Counsel’s function. The Judiciary Committee has an extremely impressive staff of attorneys that I supervise, in addition to a very qualified support staff. In addition, the Chief Counsel also is often called upon to serve as a spokesperson for the Committee Chair. Clearly, the Chair cannot engage on every bill with the same level of personal involvement. Oftentimes, the Chief Counsel assists the Chair in communicating to legislators and staff changes that need to be made to their bills — or even the difficult message that certain proposals are not likely to receive Committee support.

CC: Does your partisan role create any awkwardness or tension in that you are also expected to produce objective analyses of bills considered by the committee?

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DL: There clearly is an internal tension that is inherent in the job. That tension reflects the fact that committee staff serve at the pleasure of the majority party, or at the pleasure of the minority party if they're minority staff. So they're vested with a partisan point of view. At the same time, committee consultants have a critical duty to present the facts behind an issue, regardless where they lead, in addition to analyzing and setting forth a clear policy position. Responding to that tension is an art form. What makes for great committee consultants and analyses are individuals who can fairly, openly, and transparently convey information simultaneously on both of those fronts. A real test of our analyses is whether we have gotten across the key facts and law surrounding a policy proposal, while at the same time succinctly conveying the particular policy views and concerns of the Committee majority. The minority party has its own analyses for the minority party members of the committee. We have two analyses that come through a committee on each bill.

CC: You've mentioned the majority committee staff as well as the minority consultant. Can you expand a little bit on their respective roles?

DL: The judiciary committees have 5 or 6 attorneys who handle the lion's share of the work of analyzing hundreds of bills every year. And, in the era of term limits, not only have we seen a greater turnover of legislators but we have also seen a much quicker turnover of committee staff. Fortunately, even in the era of term limits, the judiciary committees have tended to have longer serving, and particularly impressive, committee counsel. Each attorney specializes in particular areas, and the Chief Counsel has the challenging task of trying to know a little bit about all the issues.

There's also typically one minority counsel, who serves directly for the minority committee members of the judiciary committees. Fortunately the Assembly Judiciary Committee has had a superb minority counsel for over a dozen years. I consider my very close relationship with Mark Redmond to be a key ingredient for assisting our Chair and the Vice-chair in making the Committee run smoothly and effectively.

CC: What are some of the most significant issues you have had an opportunity to affect in your role as Chief Counsel?

DL: Immediately the issue that jumps out, which was absolutely a trial by fire, occurred when I commenced my role as Chief Counsel under the incredible leadership of my first chair, Senator Martha Escutia. The issues that we

jumped into, with the remarkable skills of Chief Justice Ronald George, Director Bill Vickrey and the untiring and inestimable assistance of Ray LeBov, Kate Howard and the great staff of the Judicial Council's Office of Governmental Affairs, were the Trial Court Funding reforms. Those legislative efforts began in earnest in 1997, and they really were a key accomplishment not only for the court system, but for the Legislature as well.

There are some very important runners up. They span the whole spectrum of civil justice issues that come before the committee, including civil rights protections on age and employment discrimination, major family law reform pertaining to child and spousal support and frankly, the need to better serve children in the family court process, to fascinating reforms involving personal privacy, health care reform, tobacco liability, jury system reform, and all areas involving the ways in which we're trying to make our court system more efficient.

CC: How many chairpersons have you served under?

DL: I'm now serving under my fourth chair in a relatively short period of time, and each has been truly impressive in his or her own way: Escutia, Kuehl, Steinberg and Corbett — I've been blessed with a virtual "dream team" of leaders and intellects as committee chairs. No one would ever have imagined, even just 10 or 15 years ago that we would have a new chair every year and a half or so. This "musical chairs of chairs" is a fundamental change from the days before term limits when committee chairs were able to serve in that position for a decade or so. I have been deeply impressed with each one of the chairs I have served under, and how quickly they have become strong stewards of the committee in their own rights.

CC: Have there been significant differences in the way the committee operates under their respective leadership?

DL: Each of the Chairs I have served under has had his or her unique form of leadership. What has impressed me is how strong each of their leaderships has been. What varies most is the particular issue areas they choose to put their own stamp on. What seems to be clear for all is the frustration they each have faced in being constrained by the short period they can serve as chair under term limits. By necessity, term limits force all committee chairs to choose just a couple of key issues that they can really focus their energies on. Looking back on the past five years, each of the chairs I have worked under has really made an impressive and unique imprint on a few key pol-

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icy issues.

CC: What effect has the turnover had on continuity?

DL: I can't overstate how profound an effect term limits has had on every aspect of the legislative process. It has inherently reduced the power of the legislative branch vis-à-vis the other two branches of government. Obviously, knowledge, history and long-term relationships are power, and to the extent that all of these are constrained by term limits, the power of the Legislature, and individual legislators, has been hampered. And this effect of term limits is true with the committee membership that turns over more quickly now, too. Members barely have the time they need to focus on the broad array of areas that come before the Committee. Term limits have not only affected the elected politicians but they have hit the staff of the Legislature hard as well. Whereas a senior legislative consultant used to be one who has worked in the Legislature for well over a decade, post term limits service of two or three years is much more typical.

CC: How does the Constitutional status of the Judicial Council differentiate how the Council conducts its advocacy efforts from the approach taken by interest groups that do not have a similar status?

DL: I think it's an evolving process for the Judicial Council to grapple with – the difficult "separation of powers" dynamics that flow from the Judicial Council's duty to make recommendations to the Governor and Legislature, and engage in the public policy process itself. Our "founding parents" never made crystal clear where the judiciary's powers end and the Legislature's powers begin, and vice-versa. The Judicial Council therefore faces this difficult issue every time there's a major issue that comes before the Legislature as to what extent the council is required, under the constitution, to make recommendations to the Governor and the Legislature, but also to what extent it is constrained as to the scope of those recommendations. That evaluation strikes me as a constantly evolving challenge and responsibility for the Judicial Council. There have been all sorts of examples where those challenges have been brought out, such as the Legislature's grappling with the so-called "secret settlement" debate. This is an area where the Judiciary and the Legislature will constantly need to work together to try to get it right.

CC: The common view is that the result of the March primary is that more liberal Democrats and more conservative Republicans will generally fill the safe "open" seats next year. If this occurs, how would such a shift within the

Democratic caucus to a more liberal caucus affect the outcome of specific issues of interest to the Judiciary Committee, such as secret settlements?

DL: It is too early to tell precisely what the effect will be in terms of particular policy issues. There are commentators who suggest that there may be a "more liberal" democratic caucus in the coming years in the Assembly, but it has struck me over the years that those types of predictions often tend to be off the mark. Oftentimes there are surprises as to assumptions made about particular politicians who are elected to the Legislature, just as there are regarding judges who are appointed to the bench. A good rule of thumb is that in this era of term limits, with such rapid turnover, each two year session is an open story where it's all very unpredictable.

CC: Describe the interplay of your committee with the Senate Judiciary Committee?

DL: The interrelationship between the committees is critically important. There are critical ways in which the two committees must work closely on issues to lead to the best legislation possible. I have always been deeply impressed with my Senate counterpart, Gene Wong, who has a tremendous intellect and many years of experience working on all of the key civil justice reforms of the past two decades. Over the years Gene and I generally have worked closely to try to accomplish these reform efforts cooperatively, and of course meet our chairs' expectations as to the types of the changes that need to be made to legislation. I see my role, and I believe that Gene sees his role, as including making sure that the two judiciary committees work together as much as possible to try to draft the best legislative product we can together, within the constraints of political realities. I think a key example of our great work together was the recent joint efforts of the two judiciary committees in the area of arbitration reform.

CC: Any final thoughts?

DL: I'd like to close with two quotes that help keep me going. The first is from Teddy Roosevelt, who said "Far and away the best prize that life offers is the chance to work hard at work worth doing." The second is from British Prime Minister John Major, who once said, "The first requirement of politics is not intellect or stamina, but patience. Politics is a very long run game and the tortoise will usually beat the hare."



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Sacramento Reacts to New Assigned Judges Policy

On July 10, Chief Justice Ronald M. George announced a new policy for retired judges who wish to serve on assignment in the state's trial and appellate courts. Effective January 1, 2003, assigned judges will not be permitted to engage in paid private dispute resolution activities during their tenure in the Assigned Judges Program.

Leaders from the other branches of government have taken note of this policy change. Here are some of their reactions:

"The Chief Justice is being typically vigorous about protecting the integrity of California's courts. I support his decision to remove any possible perception of any potential conflict in the Assigned Judges Program."

-Senator John Burton (D-San Francisco), President pro Tempore

"It is critically important for the people of California to have unwavering confidence in the integrity of our judges. The Chief Justice's decision to implement this new policy not only demonstrates strong leadership, but also will serve our democracy well by ensuring that justice is fairly and impartially distributed in our state."

-Attorney General Bill Lockyer

"I strongly support the Chief Justice's new policy. It protects the independence of the judiciary by ensuring that a retired judge sitting on assignment is free of financial relationships that may affect his impartiality or create the appearance of a conflict. Civil litigants deserve and expect impartiality from their judges."

-Senator Martha Escutia (D-Whittier), Chair, Senate Judiciary Committee

"I applaud the Chief Justice for taking steps to preserve the public's confidence in our courts. Active judges are not permitted to engage in outside dispute resolution, and it is no more appropriate for retired judges returning on assignment. I am confident that the courts will be strengthened, not weakened, by the Chief Justice's decision."

-Assemblymember Ellen Corbett (D-San Leandro), Chair, Assembly Judiciary Committee

"I'm pleased to see the Chief Justice take a strong position. It is so critical that the public believe in the impartiality of the judiciary. As soon as you add additional compensation of judges to the process, the appearance of a conflict is inevitable and just as damaging to the public confidence in the judiciary as an actual conflict"

-Assemblymember Hannah-Beth Jackson (D-Santa Barbara)

"Because of their unique station in our society, judges must avoid the appearance of conflict of interest as well as actual conflicts of interest. This new policy furthers that goal."

-Burt Pines, Judicial Appointments Secretary to Gov. Gray Davis

"I applaud the Chief Justice's courageous decision to address this issue squarely and boldly, and I appreciate his long-standing efforts to work to ensure that our public justice system is not undermined by perceptions of, or at least questions about, unfairness in the private arbitration system."

-Assemblymember Darrell Steinberg (D-Sacramento)

"On balance, I think it's a very wise policy that there be no appearance that judges are being both privately and publicly compensated for their rulings."

-Assemblymember Howard Wayne (D-San Diego)