



THE CAPITOL CONNECTION

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LEGISLATIVE CALENDAR

June 15
 Budget Bill Must be Passed

July 11
 Last Day for Policy Committees to Meet

EXCLUSIVE:

INTERVIEW WITH ASSEMBLY MEMBER MARK LENO



Assemblyman Mark Leno was elected in November 2002, representing the 13th Assembly District, the eastern portion of San Francisco. He currently serves as Chair of the Assembly Public Safety Committee, one of only four freshman legislators appointed to chair a policy committee in their first year. Prior to his election, Assembly Member Leno served as a member of the San Francisco County Board of Supervisors from April 1998 to December 2002. He is a small business owner.

Capitol Connection: What was your reaction to your appointment as Chair of the Assembly Public Safety Committee

Leno: I was honored by my appointment

because it allows me to take a leadership role in crafting policy in an important issue area. It's also an opportunity to work closely with legislators from both sides of the aisle and become intimately familiar with the legislative process in my freshman year.

CC: What are the committee's top priorities?

Leno: Our main priority is to thoroughly and accurately analyze the approximately 400 legislative proposals that are assigned to us over the course of a two-year session and to provide an open, fair, efficient and thoughtful hearing process so that we can make the best decisions for all Califor-

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GOVERNOR RELEASES REVISED BUDGET

On May 14, 2003 the Governor released his May Revision to the budget proposal. The May Revision identified a shortfall of \$38 billion. The revised plan includes more than \$10 billion in loans financed through the sale of bonds and an assumption that the vehicle license fee will be raised administratively. The new proposal shrinks the "realignment" plan proposed in January from \$8 billion to about \$1.8 billion in new tax revenues to pay for programs shifted to local governments.

Readers will recall that the budget as proposed in January included unallocated reductions of \$133.7 million for the judicial branch and new funding for retirement and health benefits costs for court employees (\$34 million), court interpreter costs (\$8 million), and security costs (\$33 million). The Governor's budget identified proposals for new reve-

nues of \$66.2 million that includes a new \$20 security fee, a \$10 increase to the trial court motion fee, and the transfer of certain undesignated fees from counties to the state totaling \$31 million. The Governor also proposed a number of structural reforms in the judicial branch including providing flexibility in court contracts for security, permitting the use of electronic recording, and shifting ownership of the court record.

The May Revision left those proposals in place and added \$17.6 million in new funding to the trial courts for workers' compensation, security, and service of process fees. In addition, the May Revision proposed, as a loan repayable by the General Fund, a transfer of \$80 million from the

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ASSEMBLY MEMBER LENO

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nians. The Public Safety Committee has traditionally been the policy committee in the Legislature with the highest bill load. This year is no exception. One out of every seven Assembly bills comes through Public Safety. The issues are challenging and real, the debates are heartfelt and robust, and the stakes are high, because the decisions we make impact so many peoples' lives.

CC: What are your personal priorities?

Leno: Personally, I would like to take a close look at the issues of parole reform and sentencing reform. From information provided by the Legislative Analyst's Office, I believe there is \$500 million to \$1 billion dollars in potential savings in the California Department of Corrections' budget through early and direct discharge from parole. Given our dire fiscal situation, California should also look to other states that have saved significant dollars in these tough times. Adopting parole release guidelines in tandem with sentencing guidelines, increasing the rate of parole release and reduced parole revocations, and closing smaller correctional facilities and using the savings to hire more parole agents are a few cost savings measures worth exploring in California.

Additionally, I would like to see the ongoing debate about the criminal justice system move away from merely being an argument between those who want to incarcerate and those who want to focus on the root causes of crime. In many ways I see my role as being someone who can bring people together to understand that if we are to progress as a society, we must achieve a better balance between prevention, treatment, and punishment. We have a historic opportunity to re-define how the citizens of this state see crime. We have recently witnessed significant declines in the overall crime rate, yet I am not convinced that people feel any safer than before. Legislators are responsible for creating the types of programs that restore a sense of community to our neighborhoods, for creating the opportunities for our young people to realize their full potential, and for creating the type of environment that will restore trust between police and citizens. We can do all of this and more if we com-

mit ourselves to thinking about public safety in terms other than mandatory sentences and additional prison construction.

CC: How has being a small business owner prepared you for your new role in the Legislature?

Leno: My two decades as a small business owner have given me a better appreciation of the challenges facing small business owners, managing people and meeting a payroll week after week. My five years on the Board of Supervisors, however, were probably the best preparation I had for my service as a state legislator, especially from a city as politically aware and sophisticated as San Francisco.

CC: You have introduced AB 230, which would allow a parole authority to impose intermediate sanctions upon certain parolees who violate the terms of their parole in lieu of returning them to prison. What motivated you to take on this issue?

Leno: The enactment of the determinate sentencing act in the mid-1970's signaled the beginning of a process that has redefined the goals of our correctional system from rehabilitation

to punishment. Over the years, we have eliminated many of the incentives to prepare inmates for release and successful reintegration into society. I believe that parole reform is long overdue. We are not moving forward with AB 230 this year, but it is my hope that after resolving our current budget situation, the Legislature will be prepared to make the necessary investment in order to lower the number of parolees that return to prison.

CC: How will the Public Safety Committee be affected by the budget debates?

Leno: The Committee itself will not be directly affected, as we spend the majority of our time dealing with bills. Last month, however, I held a Joint Hearing of the Public Safety Committee and Budget Subcommittee #4 to look into sentencing and parole reform issues and increased overtime spending in the CDC. The overall budget situation always remains foremost in my mind as my colleagues and I fight to keep our public protection and human services infrastructure whole and intact.

"If we are to progress as a society, we must achieve a better balance between prevention, treatment, and punishment."

LEGISLATIVE REVIEW

Recent weeks have seen a flurry of activity in the Legislature as both houses had until June 6 to pass their own bills. The Assembly was especially busy, with several sessions going late into the night so that lawmakers could meet the deadline. Here is an update on selected court-related bills.

APPELLATE

AB 1165 (Dymally), as amended April 29, 2003. Appellate opinions.

Provides that all opinions of the Supreme Court, a court of appeal, and an appellate department of a superior court may be cited to or by any court.

Status: Failed passage

JC Position: Oppose

COURT ADMINISTRATION

AB 782 (Kehoe), as introduced. Trial court employees: employment relations

Grants to the Public Employment Relations Board authority to process claims involving violations of statutes or rules relating to employment relations between trial courts and recognized employee organizations.

Status: Senate Rules Committee

JC Position: Oppose unless amended

AB 1641 (Keene), as amended April 24, 2003. Emergency Powers

Clarifies the authority of the superior courts and gives the Chief Justice additional flexibility to take necessary actions in a state of judicial emergency.

Status: Assembly Judiciary Committee

JC Position: Sponsor

SB 254 (Dunn), as amended May 5, 2003. Trial courts: court attendants

Restricts the use of court attendants.

Status: Senate Appropriations Committee

JC Position: Oppose unless amended

SB 655 (Escutia), as amended April 21, 2003. California Court Facilities Construction & Renovation Bond Act of 2004

Authorizes the issuance, pursuant to the State General Obligation Bond Law, of up to \$4,146,000,000 in bonds, the proceeds of which would be deposited in the State Court Facilities Construction Fund for the purposes specified in existing law.

Status: Senate Appropriations Committee

JC Position: Sponsor

SB 818 (Escutia), as introduced. Trial Court Interpreter Employment and Labor Relations Act: Clean Up

Revises a number of the implementation dates set forth in that act. Extends the ending date of the regional transition period for the program from January 1, 2005, to July 1, 2005. Makes other revisions to the act, including technical nonsubstantive changes.

Status: Senate Judiciary Committee

JC Position: Co-Sponsor

CIVIL

AB 95 (Corbett), as amended May 12, 2003. Unfair competition law: private actions

Includes new notice provisions to inform defendants of their rights in UCL actions, and clarifies joinder provisions. Provides that this bill becomes operative only if SB 122 is enacted, and provides that the provisions of the bill are not severable.

Status: Assembly Floor

AB 1712 (Assembly Judiciary Committee), as amended May 12, 2003. Civil omnibus

Conforms various statutory provisions of law to the abolition of municipal courts and their unification within the superior courts. Makes other technical and clarifying changes with respect to judicial arbitration proceedings, guardians ad litem, jury lists, service of process, small claims court, and witness fees.

Status: Senate Judiciary Committee

JC Position: Sponsor

SB 122 (Escutia), as amended May 15, 2003. Unfair competition law : private enforcement actions

Requires a plaintiff suing under the UCL to notify the district attorney of the action and to file proof of service of the notification with the court.

Status: Senate Floor

CRIMINAL LAW

AB 20 (Lieber), as amended June 2, 2003. Victims of crime: developmentally disabled victims

Adds provisions to the Penal Code, Evidence Code, and Welfare and Institutions Code to protect the rights of developmentally disabled persons and other dependent persons and elderly persons in court.

Status: Assembly Appropriations Committee

AB 101 (LaSuer), as amended February 18, 2003. Restitution.

Reorganizes and rewrites restitution provisions by deleting various disparate provisions and enacting a more comprehensive provision concerning restitution.

Status: Assembly Floor

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LEGISLATIVE REVIEW

(Continued from page 3)

AB 135 (Reyes), as amended June 2, 2003. Homicide victims

Makes it a felony to steal, take, or move the body of any person who has been the victim of a homicide into another country, state, or county, or into another part of the same county with the intent to conceal the body from law enforcement, or to prevent or obstruct the investigation or prosecution of any crime related to the homicide

Status: Assembly Appropriations Committee

AB 155 (Kehoe), as amended March 5, 2003. Criminal procedure: good cause continuance.

Provides that good cause for a continuance in a homicide or forcible sex crime case includes, but is not limited to, the temporary unavailability of requested forensic DNA analysis results and reports, when the DNA evidence at issue is pending analysis at a laboratory at the time a motion for continuance is made.

Status: Senate Public Safety Committee

JC Position: Oppose

AB 865 (Matthews), as introduced. Criminal procedure: jury instructions

Requires the court to instruct the jury, after the jury has been sworn and before the people's opening address, that the integrity of a trial requires that jurors conduct themselves as required by the court's instructions, and that accordingly, if any juror refuses to deliberate, or expresses an intention to disregard the law or to decide the case based on penalty, punishment, or any other improper basis, the other jurors shall immediately advise the court of that fact.

Status: Failed passage

JC Position: No position

AB 1273 (Nakanishi), as amended May 1, 2002. Continuances

States that provisions specifying the procedures to continue a hearing in a criminal proceeding are directory only and do not mandate dismissal of an action. Also provides that a court or magistrate shall not dismiss a case if a party fails to comply with these procedures.

Status: Assembly Public Safety Committee

JC Position: Neutral

AB 1306 (Leno), as introduced. Proposition 36: transfer of jurisdiction

Provides that if a person is sentenced pursuant to the Substance Abuse and Crime Prevention Act (Proposition 36), probation and jurisdiction shall be transferred to the defendant's county of permanent residence at the discretion of the sentencing judge.

Status: Assembly Appropriations Committee

JC Position: Sponsor

AB 1653 (Mullin), as introduced. Appeals: attorneys: contempt

Allows an attorney for a party to a criminal proceeding to appeal a sanction order or finding of contempt against him or her to the court authorized to hear an appeal of the judgment in the main action. In the alternative, allows the party to a criminal action to include a challenge to the sanction order or finding of contempt in its appeal after entry of final judgment in the main action. Requires the court to stay the execution of the order or imposition of punishment pending appeal, unless it finds on the record that a stay would frustrate the interests of justice.

Status: Senate Public Safety Committee

JC Position: Oppose

SB 3 (Burton), as amended January 9, 2003. Death penalty: mental retardation

In response to the U.S. Supreme Court's decision banning execution of a mentally retarded defendant (*Atkins v. Virginia*, 536 U.S. 304), establishes a process requiring a court to order a trial, prior to the adjudication of guilt, to determine whether a defendant is mentally retarded. Places the burden on the prosecution to prove beyond a reasonable doubt that the defendant is not mentally retarded.

Status: Senate Floor

SB 58 (Johnson), as amended April 30, 2003. Police reports: confidentiality

Requires the court to keep confidential a police report, arrest report, or investigative report, and any item attached to it, submitted to the court by a prosecutor in support of a criminal complaint, indictment, or information, or by a prosecutor or law enforcement officer in support of a search warrant or an arrest warrant. Permits the filing of a motion requesting access to such reports, after the clerk of the court redacts all personal identifying information.

Status: Failed passage

SB 222 (Margett), as amended April 28, 2003. Juveniles: detention

Permits the court to commit any person adjudged to be a ward of the court who is 18 years of age or older to a county jail for a period not to exceed one year, upon the informed consent of the ward, the district attorney, and the court, and upon specified findings of the court.

Status: Senate Public Safety Committee

SB 638 (Burton), as amended April 30, 2003. Criminal procedure: verdict form

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LEGISLATIVE REVIEW

(Continued from page 4)

Provides that the general verdict upon a plea of not guilty is "guilty" or "not proven." Provides that a defendant shall not be tried again for any offense for which a general verdict of "not proven" is rendered and that a general verdict of "not proven" shall have the same effect as an acquittal for purposes of double jeopardy.

Status: Failed passage

SB 718 (Dunn), as introduced. Criminal procedure

Requires a motion by a defendant in a criminal case to return property or suppress evidence to precisely identify the law enforcement or other governmental conduct that is challenged by the motion. Limits the evidentiary hearing concerning a motion alleging unlawful search or seizure to the law enforcement or other governmental conduct that has been precisely identified in the defendant's motion.

Status: Senate Public Safety Committee (Two year bill)

JC Position: Support if amended

SB 877 (Hollingsworth), as amended April 23, 2003. Criminal procedure: discovery

Provides that in cases in which the court orders the prosecution to provide copies of child pornography evidence to the defense, the court may issue any order it deems appropriate to limit the defense to using that evidence in ways that are reasonably necessary to developing and defending the case. Requires the court to give great weight to protecting the identity and the rights of any victim featured in the evidence when drafting orders directing the defense's use of the evidence, while still taking into account the defendant's right to prepare for trial.

Status: Assembly

JC Position: Oppose unless amended

FAMILY LAW

AB 111 (Corbett), as amended May 5, 2003. Child custody: emotional abuse.

In child custody proceedings, requires the court to consider unjustifiable mental suffering inflicted upon a child when determining the best interest of the child. Also revises the definition of unjustifiable mental suffering in the child abuse statutes in the Penal Code.

Status: Senate Judiciary Committee

AB 1108 (Bermudez), as amended June 2, 2003. Child custody: drug testing

Authorizes the court in a child custody proceeding to order a parent to undergo testing for "the illegal use of controlled substances or alcohol" if the court has determined, by a preponderance of evidence, that there is "the illegal use of controlled substances or alcohol."

Status: Assembly Floor

SB 265 (Kuehl), as amended May 13, 2003. Child custody: domestic violence

Changes the operation of the rebuttable presumption against custody to a person who has perpetrated domestic violence.

Status: Assembly Rules Committee

SB 734 (Ortiz), as amended May 22, 2003. Child custody and visitation

Makes various changes related to supervised visitation. Among other things, sets out various factors that the court must consider before granting unsupervised visitation.

Status: Assembly Rules Committee

JC Position: Oppose unless amended

JUDICIAL SERVICE

AB 67 (Negrete McLeod), as amended April 10, 2003. Judges retirement

Among other things, this urgency bill makes changes to judges' retirement. Allows members of Judges Retirement System II (JRS II) who have withdrawn accumulated contributions from this system to redeposit those contributions. Allows a surviving spouse of a judge who dies in office to receive payments to which he or she may be entitled under the Extended Service Incentive Program. Also, provides that a judge who is retired for disability may not receive a retirement allowance while he or she engages in work involving duties substantially similar to those that the judge was unable to perform due to their disability.

Status: Signed by Governor

JURIES

AB 1180 (Harman), as amended May 13, 2003. Sanctioning of jurors

Clarifies that when an individual is summoned but fails to appear for jury service, the court may, in lieu of using contempt procedures, impose reasonable monetary sanctions on the prospective juror following an order to show cause hearing.

Status: In Senate

JC Position: Sponsor

JUVENILE

SB 59 (Escutia), as amended April 8, 2003. Dependent children: appeals

The bill's intent is to provide for expedited appellate review of disputed placement orders in juvenile dependency cases. The bill would establish a writ process for appellate review.

Status: Senate Floor

JC Position: No position

Legislative Options to Address Unfair Competition Law Narrow

In the wake of the largest investigation in the history of the State Bar, which uncovered systematic abuses of Business and Professions Code section 17200, California's Unfair Competition Law (UCL), the Legislature has considered several proposals to reform the UCL. Currently, only two of these proposals are still alive in the Legislature and both bills must be passed for either to take effect.

In the Senate, Sen. Martha Escutia (D-Whittier) has introduced SB 122, which would require the courts to review and approve attorney fees in the settlement of lawsuits brought under the UCL. The bill would also specify that disgorgement is an available remedy in UCL actions. SB 122 was narrowly approved by the Senate and will now be taken up in the Assembly.

Another bill, AB 95 by Assembly Member Ellen Corbett (D-San Leandro), would require an attorney bringing a private action under the UCL to provide a notice to each defendant advising them of their rights, including information that a plaintiff's attorney is not allowed to contact a defendant once the defendant is represented by counsel, or to threaten defendants who refuse to settle. The bill also contains provisions that clarify the conditions under which defendants can be joined. Although a disgorgement provision similar to the one in SB 122 was deleted earlier from AB 95, a number of the Assembly members who spoke in opposition to the bill singled it out as one of the main reasons the two bills should be defeated.

AB 95 passed the Assembly by a single vote after a very con-

tentious debate. It appears that SB 122 may be in for a tough fight in the Assembly, where some moderate Democrats have expressed concern that these efforts do not go far enough to protect businesses.

Other measures introduced in both houses that would have made more substantive changes to the UCL, and which were generally supported by the business community, failed to get out of their respective policy committees.

Meanwhile, the State Bar has filed papers seeking the dismissal of three attorneys from the Trevor Law Group who were suspended in May for filing hundreds of lawsuits under the UCL against auto repair shops and restaurants for minor regulatory violations. In an unusual move, their attorney sought a restraining order in federal district court to prevent the State Bar from enforcing the judge's order of suspension, claiming violations of the attorneys' first amendment rights. The request for a restraining order was denied by a federal district judge in Los Angeles.

Attorney General Bill Lockyer has indicated that the State Bar's action does not affect his office's civil action filed against the Trevor attorneys. The Los Angeles County Superior Court, where the action was filed, recently transferred the case to the court's complex litigation department.

REVISED BUDGET

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State Court Facilities Construction Fund to the Trial Court Trust Fund.

Both the Assembly and Senate budget subcommittees met the week of May 19 to review the May Revise proposal. The subcommittees rejected the \$133.7 million in unallocated reductions and the security flexibility, electronic recording, and ownership of the record proposals. The subcommittees instead adopted reduced reductions from \$17.7 to \$8.5 million in the judiciary and from \$116 to \$85 million in the trial courts and replaced the funding for reductions that were tied to the adoption of the security, electronic recording, and ownership of the record proposals. In addition

to the fees proposed by the Governor in January, the Senate budget subcommittee approved increased fees for small claims, limited jurisdiction filings, continuances, and summary judgment motions.

The full Assembly and Senate budget committees approved these proposals on May 27 and 28 respectively. Each house has since adopted stripped down budget bills so that a conference committee can resolve the difference between the Assembly and Senate budgets. The conference committee began meeting on June 4.

RECALLING THE GOVERNOR: HOW IT WORKS

The *Capitol Connection* has assembled some basic information about the gubernatorial recall process and summarized the most recent activities in the effort to recall Governor Gray Davis.

Q: How is a gubernatorial recall placed before the voters?

A: The first step is for at least 65 registered voters to serve the governor with a notice of intent to recall, after which recall proponents ask the Secretary of State to certify the petition of recall for circulation. On March 25, Secretary of State Kevin Shelley certified the petition to recall Governor Davis. Recall proponents have 160 days from the date of certification to collect and turn in signatures (the deadline for the Davis recall is September 2) of at least 12 percent of the number of voters during the last gubernatorial election (in this case, 897,158 valid signatures). Once all the signatures are turned in, county elections officials must verify the signatures and certify with the Secretary of State that the requisite number of valid signatures has been obtained.

After the Secretary of State certifies the signatures, the Lieutenant Governor must call for an election within 60 to 80 days from the date of certification, or the recall election may be consolidated with another regularly scheduled election (the March 2004 primaries, in this case), at the discretion of the Lieutenant Governor, if the regularly scheduled election occurs within 180 days of the Secretary of State's recall certification (Cal. Con. Article II, sec. 15.)

Q: What would appear on the recall ballot?

A: Voters would be asked two questions on the ballot: should the governor be removed from office, and who should replace him?

Q: How does a challenger get on the ballot?

A: A prospective candidate must pay a \$3,500 filing fee and gather signatures of at least 65 voters. There is no party primary.

Q: What happens if a majority of voters choose to recall?

A: If a majority of voters choose to recall, the new governor would assume office once elections officials certify the votes. The new governor is the candidate who receives the most votes – not necessarily a majority – out of the pool of candidates on the ballot, and there is no runoff. Given the possibility of low voter turnout, elections experts point out that it is possible to have a new governor elected by less than 10 percent of the state's eligible voters. And, the party that runs a single candidate against multiple candidates from an opposing party has an advantage. A single candidate could receive most of his or her party's votes, whereas multiple candidates would likely split their party's vote.

Q: Which groups are sponsoring the recall campaign?

A: Three groups are working on the recall petition: the anti-tax group People's Advocate; a group led by Sal Russo, the manager of Bill Simon's unsuccessful campaign to defeat Davis in 2002; and a group formed for the purpose of seeking the recall, Rescue California, led by Republican political consultant David Gilliard. Campaign experts estimate it would take \$2 million to fund a successful recall. Rescue California has received financial backing from U.S. Representative Issa (R – Vista), who

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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.

"Panel Passes Bill To Ban Secret Deals In Elder Abuse Suits"

Daily Journal (May 7, 2003)

A bill that would ban secret settlements in litigation alleging physical abuse or neglect of the elderly won a legislative committee's approval Tuesday, but a long line of opponents indicates it faces a treacherous path.

Assemblyman Darrell Steinberg, D-Sacramento, promised members of the Assembly Judiciary Committee, which he once headed, that he would not try to expand AB634 to other in-

dustries, as he did with a broader bill he carried last session that was shot down. The committee approved the current measure, allowing it to proceed to a vote by the full Assembly.

"Shouldn't we take one industry and prove once and for all whether or not this creates an explosion of litigation or instead, with the right kind of balance, merely protects our senior citizens?" Steinberg asked. "Here's a chance to depoliticize the issue and find that out."

"Business And Labor Trying To Seize Initiative" *Sacramento Bee* (May 19, 2003)

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RIPPED FROM THE HEADLINES

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Business and labor have gotten an early start in what promises to be a high-stakes, high-spending slugfest on the March 2 primary election ballot.

After the Service Employees International Union and others took the initial steps to qualify an initiative to reduce the voting threshold from two-thirds to 55 percent for the Legislature to pass a budget or raise taxes, the business community responded with five "poison pill" initiatives, designed to negate the guts of the union's efforts should voters approve one of them.

In response, the SEIU coalition, which includes health care advocates and the League of Women Voters, drafted two more offerings it says would guarantee the lower voting threshold as long as one of them got more votes than the business-backed initiative.

Yet another initiative was launched to repeal business tax breaks. There's no telling how many or which measures ultimately will make the ballot.

"Prosecutors Seek Fewer 3rd Strikes" *Los Angeles Times* (May 27, 2003)

Although the U.S. Supreme Court earlier this spring ended years of legal doubts about California's three-strikes law, state prosecutors have steadily cut back on seeking life sentences for repeat offenders.

Statewide, the number of 25-years-to-life sentences for a third strike has dropped more than 50% since the peak in 1996. Falling crime rates account for part of that decline, but prosecutors, defense lawyers and independent analysts all say another major factor is that district attorneys are being more selective in deciding when to seek a third strike.

The change has been most notable in Los Angeles County, where Dist. Atty. Steve Cooley has halted prosecution of most nonviolent third-strikers. Just one of every three potential third-strike cases has been prosecuted to the full extent of the law since he took office in December 2000.

Cooley defends his approach to the law: "When you're trying to be fair, that takes some courage, because some idiots will call you soft on crime."

"Budget Crisis Snags Projects" *Bakersfield Californian* (May 31, 2003)

Billions of dollars in proposed bond issues have probably fallen victim to the state's budget crisis.

To help protect the state's shaky credit rating and avoid higher debt repayments in future years, appropriations committees in both the Senate and Assembly have shelved most of the bond issues proposed so far this year, and announced plans to block

the rest.

The chairwoman of one of the money committees warned fellow lawmakers in a letter not to expect approval of any bond issues, at least not this year.

"I believe," said Sen. Dede Alpert, D-Coronado, "it is fiscally prudent to hold ... all bills proposing new bonds until the budget is adopted and the amount of new state debt is resolved."

She said the committee could consider approving some of the bills when the legislature reconvenes in January after its winter recess.

"Burton Bill On Retardation Advances" *Daily Journal* (June 3, 2003)

A proposed method of implementing the U.S. Supreme Court's ban on executing the mentally retarded was approved by the state Senate on Monday despite strong opposition from prosecutors.

SB 3, by Sen. President Pro Tem John Burton, D-San Francisco, passed by a vote of 24-13 without debate and now heads for the state Assembly, where it is likely to face a tougher fight.

The California District Attorneys Association and the office of Attorney General Bill Lockyer both vehemently oppose the proposal.

"This bill is not workable," said CDAA Executive Director David LaBahn. "If it stays in this form, we will fight it however we can."

He said that, even if the Assembly passed the measure, it would have "a tough time on the governor's desk."

Prosecutors acknowledged, however, that a measure implementing the Supreme Court's decision last year in *Atkins v. Virginia*, 536 U.S. 304 (2002), would help the courts.

"California Lawmakers Remain Stuck In Costly Partisan Gridlock While Legislatures In Other States Find Ways To Compromise" *Los Angeles Times* (June 2, 2003)

While deepening budget woes have sparked spirited partisan debate in statehouses across America, California is in a class by itself in the refusal of lawmakers to transcend their partisan differences and solve the state's financial problems.

Almost six months after Democratic Gov. Gray Davis defined the magnitude of the budget gap, Republicans remain steadfast in their opposition to higher taxes, which they say will hurt the economy. Democrats, meanwhile, have just as stoutly resisted deep cuts to social programs, which they say

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RIPPED FROM THE HEADLINES

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will hurt the poor. And so the red ink continues to grow.

If the partisan gridlock is not broken soon, the state is headed for another late budget that will be even costlier than last year's. Controller Steve Westly has warned that the state government could run out of cash and shut down in midsummer if the budget deadlock drags into September, as it did last year.

Observers in both political parties blame several factors for the standoff: The state's requirement that a budget win two-thirds approval in both houses of the Legislature has given the minority party, currently the Republicans, unusual leverage; term limits have shortened political attention spans; and redistricting has created safe seats in contests between parties but has made some officials fear primary challenges.

By contrast, other states, whether their leadership is dominated by Democrats or Republicans, are moving through a thicket of partisan politics to meet budget deadlines and make the decisions to bring spending and revenue into line.

Some are leaning toward tax increases, others to service cuts. Some are balancing the two. Even in states where party rhetoric seems as hot as California's, an underlying spirit of bipartisanship appears to be keeping both sides focused on finding an eventual solution.

"Davis Gives Support To Amended Privacy Bill" *Sacramento Bee* (June 4, 2003)

Gov. Gray Davis on Tuesday announced his support for a much-debated bill strengthening consumer privacy rights, saying new amendments to the measure make it less burdensome for state businesses.

SB 1 would give California consumers more control over their financial information by limiting the circumstances in which businesses can pass along customers' financial information to business partners and affiliated companies.

In three previous years, the Democratic governor stood quietly as business interests blocked attempts to pass the bill.

Davis' endorsement comes as organizers of a parallel, but more strongly worded, privacy initiative announced they've collected 100,000 of the nearly 380,000 valid signatures they need to qualify for the March 2004 ballot. The initiative effort would be called off if Senator Speier's effort is successful, organizers have said.

"With 1 Sentence, Assembly Lets Budget Talks Advance"

Los Angeles Times (June 4, 2003)

Assembly Democrats pared a 675-page budget bill down to one sentence Tuesday in what Republicans labeled an effort to avoid exposing internal dissent.

The unusual parliamentary move came during a day of raucous floor debate in which Republicans railed about bloated state bureaucracies, state funding for abortion and the sale of human fetuses – and consensus on how to close a \$38.2-billion shortfall continued to elude the Legislature.

The bill bore no resemblance to the Senate version, which includes thousands of details of how and where state funds should be spent. Democratic leaders said the details were left out simply to get negotiations moving.

"Today is not the day to debate the budget," said Assembly Budget Committee Chairwoman Jenny Oropeza (D-Long Beach). "Today is the day to move the bill forward."

A bipartisan conference committee with six lawmakers from the Senate and Assembly begins meeting today to review every item in the budget and come up with a compromise bill.

But that committee will not be charged with reconciling the fundamental disagreement between the two parties that threatens to stall budget negotiations indefinitely: whether to add taxes. Democrats continue to say the budget can't be balanced without them, and Republicans say they will not vote for additional taxes under any circumstances.

Some lawmakers and staffers familiar with budget negotiations say the Assembly may have become too fractured to reach a deal by the July 1 constitutional deadline, and might instead leave that task to the Senate leadership. They say Senate President Pro Tem John Burton (D-San Francisco) and Senate Republican Leader Jim Brulte of Rancho Cucamonga are making progress on a compromise plan.

"Brulte Warns He'll Campaign Against Rebels" *Sacramento Bee* (June 5, 2003)

Republicans who support tax hikes could be targeted.

On the eve of serious negotiations to bridge the state's historic budget gap, the Republican leader of the Senate told lawmakers of his party that he would campaign against anyone who joins Democrats in voting for tax increases.

Sen. Jim Brulte of Rancho Cucamonga said Tuesday at a meeting of Republican legislators that he would go to their districts to debate them on the issue of tax increases and raise money for their opponents.

Brulte's comments set off a tempest inside the Capitol Wednesday, with Democratic leaders accusing Brulte of closing off the possibility of compromise and even some Republican lawmakers grumbling privately about heavy-handedness.



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RECALL QUESTIONS AND ANSWERS

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has contributed almost \$450,000 of personal funds to the campaign and has indicated his interest in running if the recall qualifies for the ballot.

Q: Who has received press attention as a potential candidate?

A: Republicans being mentioned in the press include U.S. Representative Darrel Issa, 2002 gubernatorial candidate Bill Simon, actor Arnold Schwarzenegger, former Los Angeles mayor Richard Riordan, and State Senator Tom McClintock (R-Thousand Oaks). Democrats who have been suggested in the press include Attorney General Bill Lockyer, Lt. Governor Cruz Bustamante, and State Treasurer Phil Angelides, each of whom is also considered a likely gubernatorial candidate in 2006.

The recall raises a conundrum for 2006 Democratic gubernatorial hopefuls: do they use the recall as an earlier opportunity to run for governor and possibly undermine Governor Davis, or do they sit out the recall, thus allowing a Republican or another Democrat to win if the recall succeeds? A successful candidate could then have the advantage of running as an incumbent in 2006. Some Democratic strategists have suggested that if the recall qualifies for the ballot, party support may coalesce behind a single major Democratic candidate. This might be someone who would agree to serve the remainder of Davis' term and not run in 2006. Senate President Pro Tempore John Burton and former presidential Chief of Staff Leon Panetta have been mentioned in this regard.

Recent developments

David Gilliard, director of Rescue California, has sent one million letters to Republican voting households to obtain signatures and money in support of ousting the Governor. The letters are signed by Assembly Member John Campbell (R-Irvine), vice chair of the Assembly Budget Committee, and other Republican lawmakers and candidates, some of whom are clients of Gilliard's political consulting firm. Some press accounts suggest that the mailer may affect Republican legislative primary campaigns by appearing to favor selected candidates. Also, some of the Governor's supporters have pointed out that the recall effort has exacerbated partisanship as the state struggles with budget woes.

Members of the Governor's campaign team from his successful gubernatorial elections have informally reassembled over the last several weeks to strategize to fight the recall. In addition, Secretary of Labor Steve Smith has taken a leave of absence from his position to lead the newly formed Taxpayers Against the Governor's Recall, and has organized a campaign to raise funds and gather signatures in support of the Governor. These signatures, however, will not affect whether the recall qualifies for the ballot.

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