

COUNTY CLERK LEGISLATIVE COMMITTEE MEETING
Offices of Governmental Affairs Consulting 1127 11th St Conference Room Sacramento
January 23, 2014
Minutes

- 1) Call to order 9:30 a.m. In attendance: Craig Kramer, Sacramento; Kathleen Moran, Colusa; Portia Sanders, Los Angeles; Matt Siverling, Legislative Advocate; Joyce Whitney, Olga Lobato, Marin; Joe Holland, Santa Barbara; Teresa Williamson, San Joaquin; Val Wood, San Diego; Tricia Webber, Santa Cruz; Karen Hong-Yee, Kenton Qwyang, San Francisco. Attending by teleconference: Donna Allred, Sacramento; Wardell House, Santa Clara; Monique Blakely, Jaime Pailma, Los Angeles; Jenny Stasik, San Bernardino; David Valenzuela, Sheila Harmon, Ventura; Victoria Rodriguez, Lisa Anderson, Bruce Crystal, Riverside; Elizabeth Gutierrez, Contra Costa.
- 2) Announcements: We are pleased to announce that Kammi Foote (Inyo County Clerk-Recorder-Registrar) has agreed to serve as co-chair of this committee, upon Craig's retirement in March.
- 3) Approval of Minutes. Moved by Portia, second by Joyce approve minutes of October 23, 2013 meeting. Motion carried.
- 4) Approved Meeting Schedule for 2014.

K Moran announced that an email will be sent to meeting participants and interested parties to confirm their level of committee participation, continuance, interest or status.

5) Committee Reports.

Legislative Analyst's Report – Matt Siverling, report of Jan. 22 attached.

Matt reviewed the Committee Sponsored Leg Proposals:

1. FBNs: Clean-up bill for AB 1325. Detail in Matt's report, addresses issues, such as identifying person to sign for an unincorporated association, and creating more flexibility for the clerk for the purpose of verifying the Proof of Good Standing. An original certificate of status is currently required, and the proposal seeks to allow the clerk the ability to make the determination of what means to use to verify the status. As the bill was authored by Sen. Lara he has to sign off on it and Matt is waiting for a response from that office.
2. Professional Photocopier: Amendment to B & P 22454 which would place additional emphasis on the requirement that a professional photocopier him or herself, or at least one person involved in the management of a professional photocopier must hold a current, unexpired notary commission. Further require that least designate in the code that it is the responsibility of the photocopier to notify the clerk of changes or expirations. Proposed amendment language: "B&P 22454 - *At least one individual or person involved in the management of a professional photocopier shall be required to hold a current commission from the Secretary of State as a notary public in this state that will be in effect from the effective date to the expiration date of the professional photocopier registration. If the notary commission is held by someone other than the registrant, written confirmation from the notary authorizing the use of their commission for this registration is required. The registrant is responsible for notifying the County Clerk and providing proof updating the valid notary commission in the event the commission expires prior to the expiration of the registration.*"

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3. Confidential Marriage License: Proposal to eliminate language that requires a marriage ceremony to take place in county the license was issued in. This suggestion was made after having numerous instances of customers incurring costs and extreme inconvenience after inadvertently getting married out of county with a confidential license which can legally only be remedied by either waiting one year to obtain a declared marriage license or go to court. Matt is seeking an author. Suggested language: "Family Code § 504. A confidential marriage license is valid only for a period of 90 days after its issuance by the county clerk and ~~may only be used in the county in which it was issued.~~"

Discussion was held on the reason the language was added in 1983, which as it turns out was at the request of the County Clerks in due to licenses being accepted back into counties that did not issue them. Craig also noted that there was an issue at that time of notaries purchasing the least expensive licenses to use throughout the state, prior to authorized notary amendments. Subsequent legislation mandates that an authorized notary can purchase licenses in the county where they are an authorized.

4. Clean up to SB 753 which incorrectly references "County Clerk" as the designated officer record a lien within the language of the bill. Sen. Steinberg's office has agreed to make the correction this year in a cleanup bill.

Los Angeles Co. had submitted another proposal which seeks to manage the number of authorized notaries within a county. There are currently less than a dozen counties with authorized notaries, none of them with a number anywhere near that held by Los Angeles, which is over 300. Portia explained some of the administrative challenges created by the volume, and expressed that it could be made more manageable if there was a mechanism to cap the authorizations. Discussion was held. Craig suggested reviewing the fees for authorized notaries. Portia will look at the possibility of fee increases and will also bring the matter to the Vision Committee where one of the ongoing projects is a review of marriage related codes.

Extensive discussion was held on the problem of inconsistency in the application and interpretation of Family Code 420 Inability to Appear for military. A couple of instances have occurred which have created major problems for counties and couples. Now the State is telling counties to call every time they get a license request to check to see if the location of the military party is considered in a conflict or war. Portia will also bring this issue up at Vision. The legislative committee will send a letter asking for a ruling or opinion to better understand the definition being applied.

Summary of Legislation being tracked as of 1/23/14:

AB 134 Logue CPRA:	drop	no impact.
AB 514 Dickinson CEQA:	drop	no impact.
SB 674 Corbett CEQA:	drop	no impact.
SB 712 Hazardous Waste Permit:	drop	no impact.
SB 834 Huff CEQA:	drop	no impact.

AB 543 Campos	CEQA Translation	Assigned to SF [Watch]
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AB 1442 Gatto Information practices act of 1977: local government. Assigned to Santa Clara. [Watch, will likely oppose]. Matt to let author know that we are reviewing and will likely oppose.

AB 1525 Lowenthal Marriage Solemnization: Would add City Clerks to the list of persons authorized to solemnize marriages. Assigned to LA [Oppose]. Matt will draft letter.

SB 831 Hill Political Reform Act of 1974. Assigned to Marin [Watch]

SB 849 Anderson Consumers: Internet Privacy. Assigned to Santa Clara. [Watch].

Announcements/Other discussion:

Victoria asked the group about a situation in her county regarding a marriage license where a strikeout had been made and the minister who solemnized and completed the license (with the strikeout) had passed away before the license was returned to the county. After discussion it was determined that a writ of mandate would be required to order the county to issue a duplicate license.

Victoria also let the committee know that she had been contacted by a person who advised her that he was initiating a grass roots effort to put forth legislation that would allow fee waivers for marriage licenses. She will keep us posted if and when additional information is available.

Continued review of Legislative Platform for discussion of revisions to future meeting.

Next Meeting February 27, 2014.

10:45 a.m. Adjourn.



By: Kathleen Moran, Co-Chair

January 22, 2014

To: California Association of Clerks and Election Officials

From: Matt Siverling, Legislative Advocate

Re: County Clerk Monthly Legislative Report

I submit the following report on legislative activity for the month of January, 2014.

The Legislature has returned from their Interim Recess and the 2014 Legislative Session is officially underway. 2014 is the second year of a two-year legislative cycle. This means that all bills that were held in transit last year have a second (brief) opportunity to move past critical benchmarks in the process this month. These bills, which were either held in committee, held by the Author to work out opposition, or too “unprepared” to move last year will all have a chance to be heard and voted on. The first deadline for bills to clear the policy committee in the House of Origin, January 17th, has passed. The deadline for bills to clear the fiscal committee in the House of Origin is January 24th. Finally, bills have until January 31st to be voted off the Floor of the House of Origin. All other bills that were held in the Second House last year will be active until the Second House deadline for all bills, which will not come until this summer.

Concurrently with the flurry of activity on two-year bills, the Legislature has also begun introducing new bills for consideration in 2014. These bills will need to be in print for 30 days prior to amending or Committee action. The deadline for bills to be introduced this year is not until next month, February 21st.

We should expect sparse Committee action until a month from the introduction deadline. Once 30 days has passed from that date, all measures will be eligible for action and Committee hearings will be buzzing.

Sponsored Bills

The County Clerk’s Legislative Committee opted to sponsor three proposals for introduction in the 2013 Legislative Session.

Business and Professions Code/Fictitious Business Name Cleanup Legislation

In 2012, CACEO “opposed unless amended” Assembly Bill 1325 (Lara), which was eventually amended and signed into law. With the amendments that were taken into the bill, the Association removed opposition and officially went neutral.

AB 1325 made wholesale amendments to the Business and Professions Code related to the fictitious business name form and application process. It was introduced in reaction to a constituent complaint in Los Angeles County who felt that they had been the victim of identity theft through the FBN application process. The bill added a

“safeguard” by allowing the county clerk to request identification or a certificate of ID to ensure that a paper trail was created during the process.

In preparing for the enactment date of January 1, 2014 for the new laws contained in AB 1325, the counties began to identify several issues that would need to be fixed moving forward. Current law did not provide an appropriate process for “unincorporated associations” to complete the fictitious business name registration. The current law also requires a higher level of scrutiny than clerks felt was needed to identify corporations and LLC’s, which creates a more expensive and time-consuming process than is necessary to carry out the intent of the original bill, AB 1325 (Lara, ’12).

The bill would clarify who should be listed as the "registrant" when business is being conducted by an "**Unincorporated Association.**" Currently, as set up by AB 1325 (Lara, '12) those signing up as "unincorporated associations" do not have a set of rules/guidelines that fit their needs. They differ from "partnerships" since they have no "partners" and differ from "corporations" because corporations are treated as stand-alone entities. The bill would add a process for designating the appropriate person to sign the FBN.

Second, the current law requires an "original certificate of status" from the Secretary of State when registering for an FBN as a corporation, LLC, and limited liability partnership. This proposal would allow alternative forms of "evidence or proof" to indicate the current existence and good standing of the company. This suggestion will streamline the process for this population of registrant and would save time and money for those applicants who could satisfy the requirement through other means. For example, until the law went into effect on January 1, 2014, Los Angeles County was allowing a screen print of the Business Entity Detail report that populates the Secretary of State's web form. The current "original certificate of status" would carry a cost and also, according to courier services and recent applicants, slow the process by weeks.

The Association has approached Senator Lara, who was the Author of AB 1325 in the Assembly, to inform him of our intent to amend the law. The Association has also approached the Senate Business and Professions Committee to determine if the changes can be incorporated into their Committee bill. The Chief Consultant has decided that the amendments are acceptable to him, but that he would need “sign-off” from Senator Lara prior to accepting them. We are awaiting a response from the Senator and will continue to look for an alternative Author in the meantime.

Professional Photocopier Registration Legislation

This bill will specify that a person registering as a professional photocopier with the county is made aware that their notary commission must remain current throughout the duration of their registration period.

Current law only requires that a person registering as a professional photocopier with the county clerk only possess a “current commission to act as a notary from the Secretary of State.” Because the commission may expire after four (4) years, there is a possibility that a lapse may occur during the course of the registration with the county, which lasts two (2) years.

This bill will ensure that a person is aware that they are required to carry a commission to act as a notary that is active throughout the registration with the county, and if it expires in the middle of the county registration, they must notify the clerk that the issue has been addressed. This bill will provide a higher likelihood that professional photocopiers are current with necessary requirements throughout the duration of their registration, not just at the time they register.

The Senate Business and Professions Committee has also been approached and educated on this proposal. They have indicated that it is a candidate for their Committee bill. All necessary paperwork has been completed and submitted, and the Association will be prepared to answer all questions from Members who will be reviewing the submissions for the Committee bill.

Confidential Marriage License/Marriage Ceremony Location Bill

This measure was adopted for sponsorship by the Association due to reports from numerous counties of members of the public inadvertently violating current law related to confidential marriage licenses. Current law mandates that the marriage ceremony must take place within the county that issued the license. If and when couples do not follow this law, the license is invalid and the couple must seek legal recourse to repair the problem.

In researching the history of the Code Section, Family Code 504, it was determined that the language to mandate that the same county issue the license and host the marriage was added in 1983 by...the California County Clerks Association. In the analysis which was provided to then-Governor Deukmejian, the sponsor indicated that the amendment would address the numerous instances where couples were unaware of which county their license was located. Mandating them to register and then hold their ceremony within the same county would correct this problem.

Moving forward, it would be helpful to gather some anecdotal examples of couples who have struggled to deal with this Code Section. As long as the registration and the ultimate filing stay with the same county, it should not matter where the ceremony takes place.

The Association will speak with the Senate Judiciary Committee and begin to approach Members to determine who may be interested in changing this law.

I. **Other Bills of Interest**

Senate Bill 753 (Steinberg)

Position: Amend

Last year, CACEO identified an incorrect reference to “county clerk” as the designated officer to “record a lien” within the language of this bill. This reference would more appropriately read “county recorder”.

This bill provides the Central Valley Flood Protection Board (Board), with new and clarified authorities for addressing unauthorized and unforthcoming structures built in or on levees or other areas of the flood control system which are under the jurisdiction of the Board.

The Author, his staff and the Committee staff were approached and made aware of the terminology error. Unfortunately, the political staff in the Senate Pro Tem’s office informed the Association that with the “tenuous position the Pro Tem’s legislation finds itself in; and with growing tension between the Assembly and the Senate over ancillary issues, we are simply not comfortable amending this bill at this time.” They apologized and asked if it would be amenable to quickly fix the issue in their Committee bill next year, along with any other technical cleanup issues we/they may discover between now and January. Either way, they restated that SB 753 was not going to be amended.

The Committee staff for the Senate Pro Tem has already been approached and provided with the Code Section of the error. They have agreed to quickly and quietly clean it up this year in a Committee bill.