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COUNTY CLERK LEGISLATIVE COMMITTEE MEETING
April 24, 2014
Minutes

Call to order 9:30 a.m. In attendance: Kathleen Moran, Co-Chair, Colusa; Portia Sanders, Jaime Pailma, Los Angeles; Matt Siverling, Legislative Advocate; Olga Lobato, Marin; Teresa Williamson, San Joaquin; Tricia Webber, Santa Cruz; Karen Hong-Yee, Kenton Owyang, San Francisco, Donna Allred, David Villanueva, Sacramento.

Attending by teleconference: Kammi Foote, Co-Chair, Inyo; Wardell House, Santa Clara; Jenny Stasik, San Bernardino; David Valenzuela, Sheila Harmon, Ventura; Elizabeth Gutierrez, Laura Wilson, Barbara Dunmore, Contra Costa. Tauna Mallis, Riverside.

Correction to Minutes of March 24 Jaime Pailma was on the conference call.

Motion by Portia, seconded by Olga to approve the Minutes of the March 24, 2014 meeting with correction. Motion carried.

Matt presented his April Legislative Report (attached). Every bill on our agenda is still in its house of origin. No updates on our sponsored bills that are set to be included in committee bills, but Matt has received indications that they will move forward. AB 2747 is an Omnibus Bill that includes our Confidential Marriage License proposal. It is in print and set for hearing on April 22. Matt will draft a support letter.

AB 1525 Position: Oppose. City Clerks would be added to the list of officials authorized to solemnize marriages, has moved over to Senate Judiciary Committee. Matt thinks we may have more traction on that side in our position which is oppose. It will likely be heard in June. Portia would like to see an amendment to conform the language to match the elected mayor provision, i.e., elected clerks only, effective while in office and attend a course of instruction.

AB 2528 – Diacritical Marks. Position: Previously neutral, now “concern” due to unknown costs of implementation. It has caused counties to ask vendors if they could accommodate the marks and at what cost. It appears that the federal agencies and other larger state agencies would not be able to implement the use of diacritical marks. Portia has information on costs for Vital Check – etc. Jenny will continue to work with Matt. The bill did pass out of committee and into appropriations, where it should undergo a more focused level of scrutiny.

AB 2286 - Process Servers. This bill is sponsored by the process servers. So far the State Bar has no issue with it. The 4/22 hearing was cancelled at the request of the author. Now set for hearing on 4/29. Some counties feel strongly about retaining the responsibility, but since it is the process servers themselves who are initiating the legislation, our official position is still “neutral”. There appears to be more than a few logistical issues that would need to be addressed, and it seems very un-streamlined with only two main State Bar Offices to handle filings. There may be on-line registration and tracking, but it is unclear.

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A question came up if people could register at the local state bar office. No further information available at this time.

Matt updated the committee on the AB 1325 amendments and a brief discussion was held. Matt's April report provides detailed information and we are waiting for the committee bill for actual language.

Committee Review of Bills tracked:

AB 1442 Gatto, Public Records Position: Oppose. Amended language in bill now applies only to school districts.

AB 1612, Donnelly, State Government : regulations. Position: Watch. No changes.

AB 1627, Gomez, Fees for state services. DROP.

AB 1637 Frazier, Driver's Licenses: veteran designation. Position change from Neutral to Watch. No other changes.

AB 1600, Alejo, Driver's Licenses: nondiscrimination. Position: Watch. No changes.

AB 1698, Wagner, Falsified Public Records. Position: Neutral. Committee needs clarification regarding the order voiding a false or forged instrument. Is the order filed on the Clerk side, or recorded on the Recorder side?

AB 1702 Maienschein, Professions and vocations: incarceration. Position: Neutral. No changes.

AB 1733 Quirk-Silva, Public Records, fee waivers. Position: Previously Watch, now Soft Oppose based on potential for abuse, concern with costs and fraud issues. Matt to draft oppose letter with input from Karen and Portia.

AB 1856 Wilk, Deposit in lieu of bond. Position: Watch. State mandate removed.

AB 1921 Holden, Public contracts for services; access to records. Position: Watch. No change.

AB 1948 Mullin, Counties: officers: qualifications for office (INFO ONLY).

AB 1951 Gomez, Vital Records, birth certificates. Position: Neutral.

AB 2018 Bocanegra, Real estate licenses: fictitious business names. Authorizes the California Bureau of Real Estate (CalBRE) to determine when a business name is not considered a fictitious business name if it meets specified requirements. Consumer protection bill. Position: Watch.

AB 2147, Melendez, Privacy: personal information: agency disclosure. Position: Watch. Amended 4/22. Unclear at this point if applies only to state agencies.

AB 2166 Bonta Decedent's estates: administration: custodians of wills. Position: Watch. No change.

AB 2215 Maienschein, Veterans: recorded documents. Position: Watch. No change.

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AB 2275 Ridley-Thomas, Certified copies of marriage, birth, and death certificates: electronic application. Position: Support.

AB 2353 Waldron Env Quality: EIRs DROP

AB 2417 Nazarian Environmental Quality. Position: Watch. Establishes new exemption from CEQA for installation of new, and maintenance of existing, recycled water pipelines less than 8 miles. No changes.

SB 831 Hill Political Reform Act Position: Watch. No changes.

AB 849 Anderson Consumers: Internet privacy – Position: Watch.

SB 981 Huff Regulations: review process. Position: Watch. Applies to State agencies.

SB 1050 Monning Notaries public: verification of content of documents. Position: Changed from Neutral to Watch. Adds a statutory notice to specified forms completed by a notary indicating that the notarial certification verifies only the identity of the person who signed the document, and not the truthfulness, accuracy, or validity of that document. That notice would be included, as specified, in a certificate acknowledgment, proof of execution, and jurat. Discussion was held, concern that said notice, must appear in not less than 12-point boldface font type, to be inserted in a box at the top of the certificate of acknowledgment, proof of execution, or jurat. Matt will speak with the author's office and get clarification regarding the font issue. This specific font size language could be replaced with "legible font."

Continued to watch the following Political Reform Act bills:

SB 1101 Padilla

SB 1102 Padilla

SB 1103 Padilla

SB 1104 Padilla

SB 1441 Lara

SB 1442 Lara

SB 1443 DeLeon

SB 1091 Galgiani Administrative procedures CRNA: Proposed rulemaking activities. Position: Watch. 4/7 Placed on Appropriations suspense file.

SB 1208 Yee Domestic Violence victims: services and support. Position: Watch. No changes.

SB 1306 Leno Marriage Position: Neutral.

SB 1337 DeSaulnier Public Records: electronic copies and media requests. Position: Oppose. Hearing 4/29.

SB 1351 Hill Credit and Debit cards. Position: Watch. Counties are exempt. Applies to "Retailer" defined as person or entity that furnishes money, goods, services, or anything else of value upon the

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presentation of a payment card by a cardholder. "Retailer" shall not mean the state, a county, city, city and county, or any other political subdivision of the state.

SB 1345 Natural Resources and Water. Position: Support. Hearing May 5.

SB 1379 Huff Credit Cards. Position: Watch. No changes since March.

SB 1444 DeLeon FPPC: administration. Position: Watch. No changes since March.

Announcements:

Annual Conference is July 14-18 at the Newport Beach Marriott. The regular committee meeting will be held on Tuesday July 15 at 1:00 p.m. Panels, programs and presentation ideas were discussed. There will be a general county clerk session on legislation. Matt will be on the panel.

Next meeting date is May 22, 2014.

Neither Co-Chair is available to attend the May 22 meeting. Portia has agreed to chair it.

Adjourn 10:30.

By: Kathleen Moran, Co-Chair

April 23, 2014

To: California Association of Clerks and Election Officials

From: Matt Siverling, Legislative Advocate

Re: Legislative Report

I submit the following report on legislative activity.

The Legislature is in full stride now with Legislative hearings. All bills are eligible to be heard and Committee agendas are packed with items to debate. The Houses took a week vacation for Easter and have returned to address what needs to be done prior to deadline week.

As reported last month, Committee staff is furiously working to complete initial analyses of every measure that is referred to their jurisdiction. They are faced with the same challenges that we are and spend the majority of their time attempting to draft summaries and impact reports of “moving targets.” The Committees need position letters from interest groups (like CACEO) usually a week in advance of a hearing, so their task is a challenging one. The “first policy committee hearing” is usually a balancing act between “friendly members of your own House” and optimistic expectations for legislation. Members introduce their bills in the form they’d like to pursue, but opposition begins to whittle bills down immediately into a palatable form. Many measures are allowed to pass out of Committee with promises to “work out concerns” raised by opposing groups.

The deadline that everyone is working toward is May 2, 2014, which is the last day for policy committees to hear bills in their own House. The last day for bills to be moved through the House of Origin and on to the opposite House is May 30th.

Sponsored Bills

The CACEO Legislative Committee opted to sponsor three proposals for introduction in the 2014 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 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 also approached the Senate Business and Professions Committee to determine if the changes can be incorporated into their Committee bill. The Senator's staff discussed the amendments with CACEO and with Los Angeles County staff to ensure that their intent would remain intact. After much deliberation, the Senator signed off on the changes and allowed the contents to be placed into the Committee bill.

Moving forward, there were some changes to the original proposal that were insisted upon by the Legislative Counsel. The use of the term "agent" and the designation of an "agent" to sign FBN paperwork and become the point of contact for litigants was an issue of concern. Eventually, the Association agreed to remove that portion of the proposal and move forward with the bulk of the remainder of the bill. We can revisit the issue in the context of the Committee bill.

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.

This language has finally been amended into AB 2747, the Assembly Judiciary Committee bill. It is in print and up for hearing on April 29th.

Other Bills of Interest

Assembly Bill 1525 (Lowenthal)

Position: Oppose

The Committee opted to oppose Assembly Bill 1525, which would add “city clerk” to the list of individuals permitted to solemnize a marriage by virtue of their title. City clerks would be added to clergy, Congress, members of the Senate and Assembly, elected Mayors, and members of the County Board of Supervisors.

This measure was heard in the Assembly Judiciary Committee on March 25, 2014. The Association argued that since county clerks are the statutorily designated “commissioner of marriages” in their respective counties, and function as a political subdivision of the California Department of Public Health, the designation should remain solely with the county to provide this service. Further, one of the principal functions of the county clerk is the issuance and administration of the marriage license, which won’t be offered at the city. Under current law, county clerks also have the ability to “deputize” interested individuals to perform a marriage.

County clerks explained to the Committee that they are troubled and concerned by AB 1525, which would blur the function between city and county clerks. The existing list of eligible dignitaries and elected officials may occasionally perform marriages for constituents from time to time, which is different than adding “city clerks” to the list; who would confuse the public by granting the authority to an administrative public office which currently does not provide any services related to marriages. Couples would continue to be required to apply for their marriage license at the county office, file their license with the county recorder within 10 days of the ceremony and obtain their certified copies of marriage documents from the county clerk.

The Committee struggled to find a reason to vote against a fellow Democrat and approved the bill for passage to the Floor. The Committee did question the “need” for the bill, but stopped short of voting against it. CACEO will continue to work with the Author and sponsors (City of Long Beach).

Assembly Bill 2286 (Wagner)

Position: Neutral

This bill proposes to transfer the registration and oversight of “process servers” from the county clerks to the State Bar. The Author argues that the State Bar is a more appropriate body to oversee the process servers because they share a common link with the courts

and the legal process. Further, the Author also views the single “portal” of the State Bar as preferable to 58 individual county registration programs, especially considering that process servers may do business across multiple counties.

Counties have been polled to determine whether the clerks are willing or interested in resisting the transfer of duties. The majority of responses that have been received have indicated that there is little interest in fighting to retain this function.

However, there are several counties who indicated that they would prefer to continue overseeing the process servers in their jurisdictions. Based on these responses, CACEO has opted to remain “neutral” up until now rather than take an active position that does not reflect the entire Association.

Since the last meeting, it has been determined that this bill is being sponsored by a State Association that represents “process servers and professional photocopiers.” The industry, itself, is seeking the transfer from a “county by county” registration program to a single State portal. Further, the State Bar Association has also indicated that they’re willing and able to take on the responsibility.

Based on the “buy in” from affected parties, CACEO removed the opposition and has shifted back to “neutral.”

Assembly Bill 2528 (Skinner)

Position: Concern

The April 1, 2014 amendments added “marriage licenses” into the provisions of the proposal, which requires “diacritical marks” to be added to government documents. CACEO is currently in the process of evaluating the impacts of this mandate.

AB 2528, as amended, now provides that all marriage records include diacritical marks, including but not limited to accents, tildes, graves, umlats and cedillas. County Clerks have expressed concerns that this law would create unintended complications for customers. Historically, all electronic indexes maintained by the County Clerk have only been programmed to use 26 alphabetical characters. The various software systems that are currently in use throughout the state will need to be modified to accept diacritical marks. Additional staff time processing amendments may be required if the marks are inadvertently left off or improperly included when issuing a marriage license. CACEO is still researching how this bill would affect our customers on the federal level since the marriage license is used as a legal name change document in the State of California. This may cause issues with the issuance of federal passports and interaction with Social Security offices.

CACEO understands the intent of the measure but also must communicate the potential challenges of complying with this State mandate. Individual counties each may encounter unique issues in attempting to comply with this proposal depending on the vendor and technology employed to issue licenses and maintain indexes. As problems are identified, the Association will relay them to the Author.

Senate Bill 1345 (Committee on Natural Resources)

Position: Support

Last year, CACEO identified an incorrect reference to “county clerk” as the designated officer to “record a lien” within the language of a Chaptered bill, SB 753 (Steinberg). This reference would more appropriately read “county recorder”.

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

The bill is moving right along, and was approved on “consent” in the Senate Natural Resources Committee on 4/22.