Drafting Resolutions and Enacting Legislation Through CCBA

How Individual California Lawyers and Local Bar Associations can improve California Law, working through the Conference of California Bar Associations and the Legislature

SHAUN DABBY JACOBS

2022-2023 Chair

Conference of California Bar Associations

What is the CCBA?

- The Conference of California Bar Associations (CCBA) is a statewide organization of attorneys representing more than 30 metropolitan, regional and specialty bar associations. The organization is dedicated to serving justice in California by developing creative, non-partisan solutions to law-related issues.
- The CCBA was formed in 2002 as an independent 501(c)(6) non-profit organization, the successor to the former State Bar Conference of Delegates, with whom it shares a history of more than 70 years.
- Participation in the CCBA is open to all local, regional, metropolitan, minority, and specialty voluntary bar associations in California, and funding is entirely through voluntary contributions.

2022 CCBA Legislative Program

Resolutions introduced in legislation

Resolutions signed into law in bills

THE LIFE CYCLE OF A RESOLUTION

HOW A LAWYER'S IDEA BECOMES PART OF THE CCBA'S LEGISLATIVE PROGRAM

- Idea usually comes up in lawyer's practice, or from personal experience
- Can be amendment to existing law or entirely new statute
- May respond to Court of Appeal Decision

The Resolution

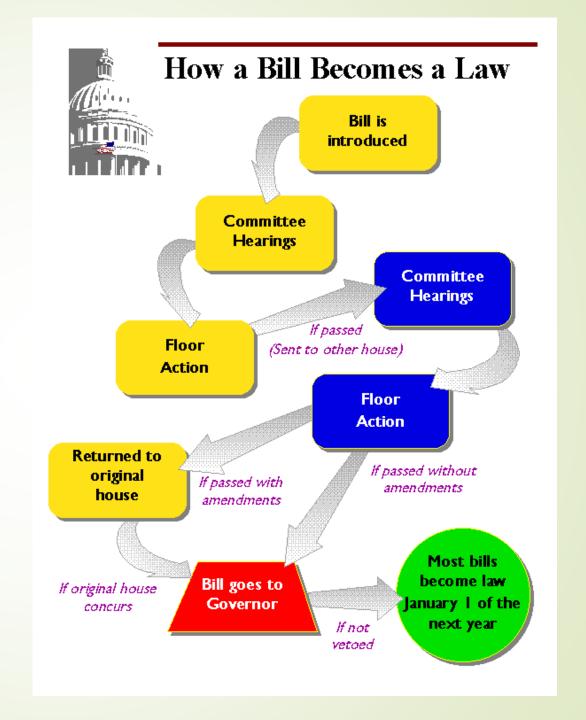
- Specific format must be followed
- Precise statutory language
- Explanation of why this change is needed.

Reviewed by Other Bar Associations, CLA Sections/Committees, Other Groups

CCBA Resolutions Committee Analyzes, Makes Recommendation

Debate, Possible Amendment, and Vote by the Conference

Simplified
Outline of
Legislative
Process



2-Year Legislative Sessions (Current is 2023

- Key Considerations
- → 1st (Odd-Numbered) Year
 - New members elected in November of preceding year
 - Actually organizes in December of preceding year (officers elected, handful of bills introduced)
 - Most bills introduced in January/February (80% last week of February)
 - Bills that stall along the way become two-year bills, eligible for consideration in 2nd year
 - If stall in house of origin, must pass that house by next January 31 or die by operation of state Constitution
 - If stall in 2nd house, treated as any other bill introduced in 2nd year

2-Year Legislative Sessions (Current is 2023-24) – Key Considerations

- → 2nd (Even-Numbered) Year
 - Same members, ususally same officers, committee chairs and members, etc.
 - Session resumes in January, begins with consideration of twoyear bills that have not cleared house of origin
 - Must pass that house by next January 31 or die by operation of state Constitution)
 - Otherwise process essentially same as 1st year
 - Big differences:
 - Bills that stall along the way are effectively dead, though actual death does not occur until adjournment
 - Session is usually about 2 weeks shorter (concludes midnight of August 31 by operation of Constitution)

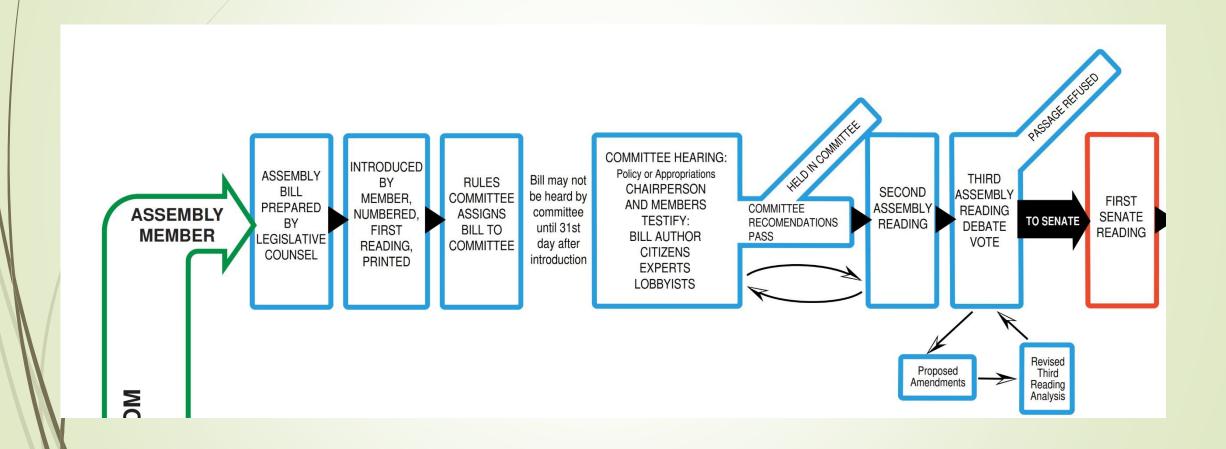
Once the Resolution has been Approved by the CCBA

- Idea is presented to the Legislature, among other ideas from different sources
 - Legislator's own ideas
 - Ideas from constituents
 - "There ought to be a law" and "Wiki-bill" proposals
 - Ideas from organizations
 - "Special interests"
 - Other organizations like the CCBA (e.g., Public Defenders, District Attorneys, Defense Counsel, Consumer Attorneys, State Bar Sections)
 - Legislative proposals developed as the result of studies (e.g., CLRC) or legislative committee informational hearings.

Placing CCBA Resolutions in Legislation

- Create background packets for resolutions
- Vet resolutions
 - Legislative committee staff
 - Interest groups
 - Other Institutional Players
- Circulate Resolutions to Lawmakers
 - Give each opportunity to choose resolutions of interest
 - In some cases, try to match specific resolutions with specific authors where:
 - Potential author has particular area of interest and expertise
 - Need particular "skill set" to get particularly tough resolutions through (i.e., position, clout, etc.)

Lifecycle of Legislation – First House





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28	<u>29</u>	<u>30</u>	<u>31</u>			

Mar. 30 Spring recess begins upon adjournment of this day's session (J.R. 51(a)(2)).

Mar. 31 Cesar Chavez Day.

Apr. 10 Legislature reconvenes from Spring recess (J.R. 51(a)(2)).

<u>Apr. 28</u> Last day for **policy committees** to hear and report to **fiscal committees fiscal bills** introduced in their house (J.R. 61(a)(2)).

May 5 Last day for **policy committees** to hear and report to the floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3))

May 12 Last day for policy committees to meet prior to June 5 (J.R. 61(a)(4)).

May 19 Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).

Last day for fiscal committees to meet prior to June 5 (J.R. 61(a)(6)).

May 29 Memorial Day.

May 30-June 2 Floor Session Only. No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).



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24	25	26	27	28	29	30

<u>June 2</u> Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).

June 5 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget must be passed by midnight (Art. IV, Sec. 12(c)(3)).

July 4 Independence Day.

July 14 Last day for policy committees to meet and report bills (J.R. 61(a)(10)).

Summer Recess begins upon adjournment of session provided Budget Bill has been passed (J.R. 51(a)(3)).

Aug. 14 Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).

Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(11)).

Sept. 4 Labor Day.

<u>Sept. 5-14</u> Floor session only. No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(12)).

ept. 8 Last day to amend on the floor (J.R. 61(a)(13)).

Sept. 14 Last day for each house to pass bills (J.R. 61(a)(14)).
Interim Study Recess begins at the end of this day's session (J.R. 51(a)(4)).

Introduced Bill Assigned to Policy Committee

- Each houses has established standing policy committees to consider bills in their subject matter areas
 - Assembly: Committee members (including chairs and vice-chairs) assigned by Speaker of Assembly, along with the number of committee members
 - Many committees are traditional (e.g., Judiciary), but others can be created or disbanded as Speaker sees fit.
 - Composition of committee can make all the difference in passage or defeat of bill (see, e.g., 2015 "End of Life' bills (SB 280, AB2X 15) "Speakerization" practice
 - Senate: Committee members, chairs, vice-chairs, etc., all determined by Senate
 Rules Committee essentially proxy for President pro Tem
- Bills are assigned to policy committees by the Rules Committees of the respective houses based on subject matter
 - Most often pretty intuitive
 - Sometime important cross-jurisdictional issues mostly resolved in recent years by double- (sometimes triple) referrals
 - AB 1856 went to both the Banking and Judiciary committees in both houses

Legislative Standing Committees

22 Senate 31 Assembly

SENATE Standing Committees

- Agriculture
- Appropriations (FISCAL COMMITTEE)
- Banking and Financial Institutions
- Budget and Fiscal Review (CONSIDERS ONLY BUDGETARY ISSUES)
- Business, Professions and Economic
 Development
- <u>Education</u>
- <u>Elections and Constitutional Amendments</u>
- Energy, Utilities and Communications
- <u>Environmental Quality</u>
- Governance and Finance
- Governmental Organization
- Health
- Human Services
- Insurance
- Judiciary
- <u>Labor and Industrial Relations</u>
- Natural Resources and Water
- Public Employment and Retirement
- Public Safety
- Rules
- Transportation and Housing
- Veterans Affairs

ASSEMBLY Standing Committees

- Accountability and Administrative Review
- Aging and Long-Term Care
- <u>Agriculture</u>
- Appropriations (FISCAL COMMITTEE)
- Arts, Entertainment, Sports, Tourism, and Internet Media
- Banking and Finance
- Budget (CONSIDERS ONLY BUDGETARY ISSUES)
- Business and Professions
- Education
- Elections and Redistricting
- Environmental Safety and Toxic Materials
- **Governmental Organization**
- Health
- Higher Education
- Housing and Community Development
- Human Services
- <u>Insurance</u>
- Jobs, Economic Development, and the Economy
- <u>Judiciary</u>
- <u>Labor and Employment</u>
- Local Government
- Natural Resources
- Privacy and Consumer Protection
- Public Employees, Retirement, and Social Security
- Public Safety
- Revenue and Taxation
- Rules
- Transportation
- <u>Utilities and Commerce</u>
- Veterans Affairs
- Water, Parks, and Wildlife

SCHEDULE OF 2023-24 REGULAR SESSION ASSEMBLY STANDING COMMITTEE MEETINGS

(All hearings take place in the State Capitol or at 1021 O Street, unless otherwise noted)

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C#11			

Time Room	Committee
1021 O Street	
2:30 p.m.*	 Transportation
State Capitol	
3:30 p.m.** 444	 Banking and Finance
2:30 p.m.***	 Emergency Management
2:30 p.m.*	
2:30 p.m.*	
*!	
120	 Kules
TUESDAY	
Time Room	Committee
1021 O Street	
9 a.m.*	 Business and Professions
1:30 p.m.*	
State Capitol	
3 p.m.**	 Aging and Long-Term Care
	Arts, Entertainment, Sports, and Tourism
1:30 p.m.*** 444	 Environmental Safety and Toxic Materials
1:30 p.m.** 437	
1:30 p.m.***	
	Jobs, Economic Development, and the Economy
9 a.m.*	
4 p.m.*** 126	
1:30 p.m.** 126	
9 a.m.*	 Public Safety
9 a.m.*** 444	 Water, Parks, and Wildlife
WEDNINGS IV	
WEDNESDAY	Cin
Time Room	Committee
9 a.m.* 1100	Appropriations
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1:30 p.m.***	
1:30 p.m.**	
State Capitol	 Governmental Organization
9 a m *** 437	Accountability and Administrative Review
1:30 p.m.***	 Agriculture
1:30 p.m.***	
1:30 p.m.**	
9 a.m.*** 444	
9 a.m.*** 126	 Housing and Community Development
9 a.m.**	
1:30 p.m.** 447	
1:20 p m *** 447	

1:30 p.m.*** 447 Local Government 9 a.m.** 444 Public Employment and Retirement

Note several committees meet at same time, so members often will be presenting bills in one committee while assigned to be hearing bills in another.

^{*} Meets every week.
** Meets 1st and 3rd week of the month as called at time indicated.

^{***} Meets 2nd and 4th week of the month as called at time indicated.

[!] Upon call of the Chair.

Committee Procedure and Hearings (Policy)

- First consideration is providing committee staff with background information on bill
 - Information sheets (e.g., CCBA Resolution)
 - Legislative history of code section
 - Prior legislation
- Second consideration is addressing opposition, if any, BEFORE hearing
 - Meet with Opposition to resolve issues, if possible (via amendment)
 - Committee staff opposition or concerns as or more important than outside opposition.
 - Can (and should) meet with members' staff, possibly members themselves on bills with uncertain prospects.
- Third Consideration meeting with other committee members/staff

Committee Procedure and Hearings (Policy)

- Many bills are not heard, placed on Consent calendar
- Testimony: Each committee has its own rules.
 - Typically permit a maximum of 2-3 main witnesses in support and an equal number in opposition to a given bill. Other supporters/opponents offer "me, too" testimony.
- Rarely will all committee members be on hand to hear testimony
 - Committees often hear bills as "subcommittee" until a quorum is established (and after if members leave). Members will add votes at end of hearing.
 - Hence committee testimony usually not persuasive
- Bills require majority vote of full committee to pass.

Committee Hearings (Fiscal)

- Fiscal Committees
 - Legislative Counsel determines if bill will have fiscal impact (on state)
 - Threshold is \$25,000
 - Committees charged to consider only fiscal aspects of legislation, but can serve as additional policy committee in many cases.
 - Unlike policy committees
 - Little flexibility in scheduling hearings
 - No background information sheet to prepare (Not an advantage, because staff has just as much influence, so must be sure they have information)
 - Bills above a certain fiscal threshold identified by committee staff (\$150k Assembly, \$50k Senate) are automatically sent to Suspense, all heard at a single hearing without testimony, with results predetermined.
 - Little benefit to meeting with individual Members or staff

Hearings on the Floor

- Floor Sessions
 - Analyses now prepared by policy committee staff in both houses (Senate used to have dedicated staff).
 - Only members can be on Floor; violation of house rules for a registered lobbyist to attempt to email or text a member.
 - If need to get information to them, contact staff
- Many (but not all) hearings, and all Floor Sessions, are broadcast and video-recorded.
 - California Channel (<u>http://www.calchannel.com/</u>) provides live and archived hearing tapes.
 - New site, Digital Democracy (http://www.digitaldemocracy.org/hearings) offers the same recordings, but with expanded search and transcripts (voice recognition).
- If bill approved on Floor of 1st House (House of Origin), process starts all over in 2nd House

Repeat Process in 2nd House

- Just compressed time frame because no 30-day waiting period.
- Summer recess also provides opportunity for some to plan 11th Hour "gut-and-amends" in August.

2nd House Amendments Can Make Refinements and Improvements . . .

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE-2013-14 REGULAR SESSION

ASSEMBLY BILL

No. 1856

Introduced by Assembly Member Wilk

February 19, 2014

An act to amend Sections 995.710, 995.720, 995.740, and 995.760 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, as amended, Wilk. Deposit in lieu of bond.

Existing law allows, among other things, bearer bonds and bearer notes of the United States or this state and certificates of deposit payable, not exceeding the federally insured amount, issued by banks or savings associations authorized to do business in this state and insured by the Federal Deposit Insurance Corporation to be deposited with the officer, as defined, in lieu of a bond required by an action or proceeding, except as provided.

This bill would allow all bonds and notes of the United States or the State of California and cashier's checks, payable to the officer, to be deposited with the officer in lieu of a bond, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

rnia do enact as follows:

of the Code of Civil Procedure

led in subdivision (e) or to the bond precludes a deposit in lieu osit, the principal may, without giving a bond, deposit with the

ed States or a cashier's check, by a bank, savings association, usiness in this state. The money the officer in an interest-bearing

earer bonds and bearer notes, of alifornia. The deposit of a bond hall be accomplished by filing all parties and the appropriate d or note, instructions executed the to the bond or note that the e judgment was entered is the burpose of staying enforcement holder assigns to the Treasurer or otherwise apply the bond or or's liability pursuant to Section

ble to the officer, not exceeding a cashier's check made payable savings associations authorized nsured by the Federal Deposit cy deposited using a cashier's fficer in an interest-bearing trust

to the officer, not exceeding the with evidence of the deposit in uthorized to do business in this deposit Insurance Corporation. share accounts assigned to the lly insured amount, issued by

AB 1856

d to do business in this state and Insurance Corporation.

r share accounts assigned Share cer, not exceeding the guaranteed credit union, as defined in Section whose share deposits accounts are onal Credit Union Administration my other agency-approved by the tutions that the Commissioner of med to be unsatisfactory.

n amount or have a face value, or, have a market value, equal to or in d be required to be secured by the 1 by an admitted surety insurer. Wision of this chapter, in the case her than in an action or proceeding, discretion, require that the amount by the market value of the bonds ed on the principal amount of the

mpanied by an agreement executed officer to collect, sell, or otherwise liability of the principal on the include the address at which the tices, papers, and other documents

terms and conditions to implement

ply to deposits with the Secretary

of the Code of Civil Procedure is

alue of bonds or notes, including shall be agreed upon by stipulation or, if the bonds or notes are given the principal and beneficiary are alue shall be determined by court in this section. A certified copy of all be delivered to the officer at the s or notes.

Or Can Create an Entirely New Bill

AMENDED IN SENATE SEPTEMBER 4, 2015

CALIFORNIA LEGISLATURE-2015-16 REGULAR SESSION

ASSEMBLY BILL

No. 567

Introduced by Assembly Member Gipson

February 24, 2015

An act to amend Section 481 of the Revenue and Taxation Code, relating to taxation. An act to add Section 11362.6 to the Health and Safety Code, to amend and renumber Sections 7076, 7076.1, 7076.2, 7076.3, 7076.4, 7077, and 7078 of, to add Article 2.1 (commencing with Section 7077) to Chapter 8 of Part 1 of Division 2 of, and to add Chapter 9.2 (commencing with Section 19740) to Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to add Division 11 (commencing with Section 18740) to the Unemployment Insurance Code, relating to medical cannabis.

LEGISLATIVE COUNSEL'S DIGEST

AB 567, as amended, Gipson. Property taxation: change in ownership statement: confidentiality of information. Medical cannabis: regulation and taxation amnesty.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law, the Medical Marijuana Program, requires the State Department of Public Health to establish a voluntary program for the issuance of identification cards to qualified patients and primary caregivers under the Compassionate Use Act, and grants immunity from arrest for violation of specified provisions relating to the cultivation, possession, transportation, and sale of marijuana, if conditions of the act are met.

n, provision, or donation lucts to a qualified patient sing facility or through a as defined; would prohibit t enable qualified patients livery, as defined, with a ensary, as defined, that inder 21 years of age for edical cannabis products in state or local licenses.

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enact as follows:

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California enacted the ich became effective on of the Health and Safety their designated primary abis for personal medical of a physician.

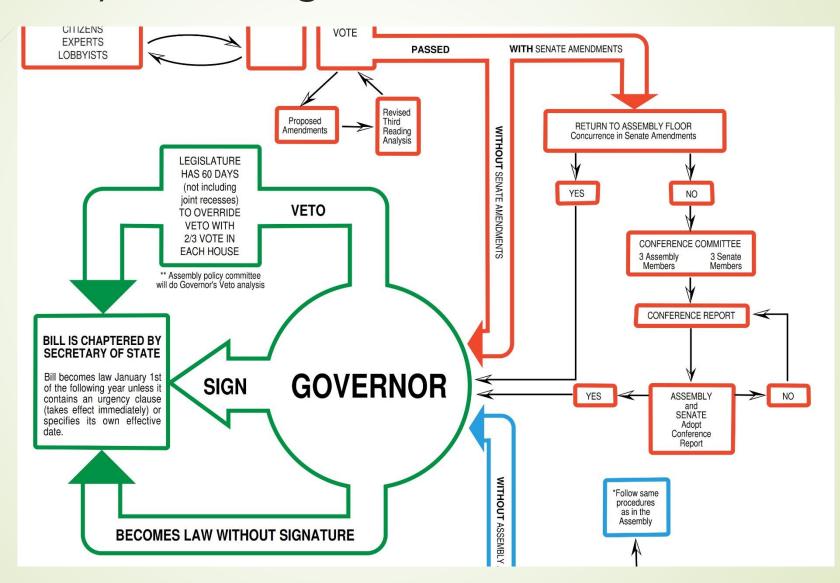
Governor refined the 20, which added Sections Health and Safety Code, ultivation collectives or ry state identification card 420 also limits the amount d to possess and cultivate. still remains illegal under ana remains classified as introlled Substances Act. drugs with no currently ial for abuse.

es Department of Justice ecutors, which established annabis-related activities The memo indicated that ramework for legalized supports those priorities l jurisdictions less likely. states Department of the ment Network (FinCEN) s setting forth FinCEN's cial institutions choosing

ate 2014 prohibits the use funds to prevent states, the use, distribution,

AB 567

Lifecycle of Legislation – Floor & Governor



Down the Home Stretch

- If no amendments made in 2nd House, bill goes to Governor
- If amendments made in 2nd House, bill returns to House of Origin for Concurrence vote
 - If House concurs in other house amendments, bill goes to Governor
 - Non-Concurrence used to mean Conference Committee, but almost never happens these days – instead, bills are returned to 2nd House for further amendment.
 - On occasion, bill substantially amended in 2nd House will be re-referred to policy committee for hearing off the floor.
- Best to make contact (send letter, meet if possible) with Governor's staff before final vote, to address any known concerns while there is still time to amend the bill.
 - Should also try to get reading from relevant administrative agencies, who are not bound by legislative deadlines or policies re late opposition.

Governor's Decision

- If bill gets to Governor more than 12 days before scheduled adjournment (August 19 in even-numbered years), has 12 days to act.
 - Date calculated from day bill actually sent to Governor, not from final legislative approval. Ministerial "engrossment and enrollment" process may take a week or more.
- If bill gets to Governor less than 12 days before scheduled adjournment, has until 30 days after adjournment (September 30 in even-numbered years).
- Governor can sign, veto, or permit bill to become law without signature by failing to do either.
 - Vetoes traditionally come with explanatory messages. Signing messages provided only in rare circumstances.
- With rare exceptions (urgency measures, statutes calling elections, etc.), bills enacted in regular session go into effect the following January 1.

If Interested, Contact CCBA Chair

Shaun Dabby Jacobs chair@ccba.law

1/21/2015

About CCBA | Conference of California Bar Associations

Conference of California Bar Associations



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Justice Through Laws

About CCBA

The Conference of California Bar Associations (CCBA) serves justice in California by bringing together attorney volunteers from across the State representing diverse backgrounds, experience, and expertise to seek, debate, and promote creative, non-partisan solutions to law-related issues for the benefit of Californians

Our work results in:

- . Improving the laws and the administration of justice in California
- · Advancing the science of jurisprudence in California
- · Advancing the education of California lawyers and fostering their professional excellence
- Promoting public understanding of and respect for the law, the justice system, and the roles of the legal
 profession and an independent judiciary in that system

The CCBA Organizational Values include:

- . To promote and facilitate volunteerism among California lawyers
- To foster open and vigorous debate of law-related issues in a courteous, respectful manner that avoids
 personal and partisan attacks
- To encourage originality, innovation, and accessibility in seeking solutions to California's law-related issues
- To eliminate prejudice and discrimination and to promote diversity in all CCBA activities, in the legal
 profession, in the judiciary, and in general public
- To foster excellence in the legal profession
- To promote and facilitate communication and cooperation within the legal profession and with bar associations, the judiciary, the legislature, and the public
- To maintain high standards of administrative integrity and fiscal accountability.

Formed in 2002 as an independent 501(c)(6) non-profit organization, the CCBA is the successor to the State Bar Conference of Delegates; the combined organizations have an almost 70 year history. With its new name and status, CCBA has been reinvented and reinvigorated as the voice of the lawyers of California. Participation is open to and encouraged from all local, minority, statewide and specialty voluntary bar associations in California.

http://calconference.org/html/?page_id=69

1/2