August 26, 2021

To: CACEO County Clerks Legislative Committee

From: Matt Siverling, Legislative Advocate

Re: Monthly Report

The 2021 Legislative Session is in the final homestretch before the final deadline to act on any active bill. As reported throughout the year, the Senate President Pro Tem and the Speaker of the Assembly opted to enforce a strict 12 bill limit per Legislator to ensure that they did not run into a workload issue at the end of Session in September, as they did in 2020. This has, of course, resulted in a significant drop in the number of active bills moving through the process. That being said, hundreds of bills are now in the bottleneck of the Senate and Assembly Appropriations Suspense File process, which will culminate on August 26th.

During the Suspense File hearing next week, measures that have been deemed to impact the State General Fund in any significant way are placed into a holding pattern and dispensed with as a whole in a single hearing. Since the Legislative process is at the point where the Houses are in possession of the opposite House bills, there is much posturing and gamesmanship to ensure that the priority issues are being respected by the counterpart on the other side of the building. The Houses will also start and stop the concurrent hearings to keep a watchful eye on the process going on across the hall; and will also pivot to land around a similar to identical “batting average” of bills released vs. held.

Once the bills that are going to be allowed to move are announced on 8/26, the remainder of the Process will be focused on Floor votes and Concurrence votes on amendments from 8/30-9/10. Once the clock strikes midnight on September 10th, the first year of the 2021-22 Session will be complete.

Since 2021 is first year of a two-year Session, bills will have an opportunity to move next year if the votes are not secured for a particular measure. The further in the process the bill makes it in the first year dictates how much time the measure is allotted to move in the second year. For bills that are currently in the Second House, the deadline to move next year will extend into the Summer.

**SPONSORED BILLS**

CACEO County Clerks Legislative Committee opted to sponsor one bill this year.

**ASSEMBLY BILL 583 (Chiu) Remote Marriage and Electronic Issuance of Licenses**

In response to the pandemic and subsequent “stay at home” order issued by the State, we pursued an Executive Order in 2020 to allow for the waiving of select Family Code provisions to allow for the remote/electronic issuance of marriage licenses and solemnization of ceremonies.

As 2021 began, we determined that, although the Executive Order is still in effect for the foreseeable future, it would be advisable to move forward with permanent changes to law to allow for the continuation of the service. Many counties have received positive feedback from constituents about the convenience and ease of the new process, and recommended that it become an option going forward; even after the COVID-19 pandemic is in the rear view mirror.

The measure is currently on Third Reading on the Senate Floor, and can be taken up for approval as soon as today. Since it was not amended in the Senate, it would move immediately to the Governor for signature upon approval.

We received late notice from the Author’s office that they were contacted by CDPH with some requested amendments that we need to discuss today. Here is the amend:

CDPH has determined that the previously amendment removing “from the same physical location” from FC 560 is no longer needed. However, CDPH is requesting an additional amendment of FC 554(b) to include clarification that the county clerk is not required to be in the same physical location within California when solemnizing or witnessing the marriage using remote technology. The suggested amendment is included below with the new addition in red.

**554.** (a) Each member of the couple shall be physically located in the State of California while using remote technology to obtain a marriage license pursuant to this part.

(b) Each member of the couple, **person solemnizing, and any necessary witnesses, excluding the county clerk** shall be in the same physical location in the State of California while using remote technology to solemnize their marriage pursuant to this part.

(c) The county clerk may require a couple to complete an affidavit, in a form provided by the county clerk, affirming that they and each individual participating in a marriage solemnization using remote technology are physically present within the State of California in compliance with this part.

CACEO would need to determine if the concern is valid and whether we agree with the request. Counties who are allowing the couples to appear in two separate locations would need to comply with the above language.

Once we decide how to proceed with the change (or not), the measure will be likely approved and sent to the Governor. It is unclear as of now whether the omission of the CDPH request would jeopardize the bill and potentially draw a veto.

**Other bills**

**Assembly Bill 819 (Levine) CEQA Notices**

As it is currently written the bill would require that all County Clerks post the EIRs on our websites within 24 hours. This is due to an amendment that was taken in April that created a mandate.

The concern that was communicated to the Author and staff was that the counties would not be ensured to be in compliance with GC 6254.21, which states that no state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual. There is a threshold of “knowingly” attached to the posting; but there is still concern that wholesale posting of notices could result in conflicts with this Section.

We have discussed proposing that, rather than posting individual notices; a link to the county index be posted on the website. We have also proposed directing those in search of an electronic version of CEQA documents to the copy posted by the “lead agency”; who would also be mandated by AB 819 to post documents online.

We conducted a conference call with the Author’s staff, the Association, and Marin and Sonoma Counties to ensure that the concerns are clear and the Author is aware of the pitfalls. We are awaiting a response to our request to assist counties with a workaround to make certain the privacy concerns and the posting of public officials’ home address information. Otherwise, they may choose to move the bill “as is” and send it to the Governor.

Since our last meeting, unfortunately, our concerns fell on deaf ears and the Author pushed the bill off the Floor, and the Governor signed the bill into law. It will become effective January 1, 2022 since it is a majority vote bill. We need to determine if clean up legislation is required next year, either in the posting requirement Section or in the Section that prohibits the posting of public official’s personal information to a “knowingly” standard.