

## 1991 LEGISLATIVE ANALYSIS CALIFORNIA

The California Legislature reconvenes in December for a new two-year session and will be faced with a mammoth budget deficit that runs into the billions, dwarfing the deficit of last session which, never the less, created a policy paralysis agitating the voters.

While the Democrats will retain control of both houses, they may well be hit by the voters with a limitation on the number of terms they may serve. Two such initiatives are on the ballot and the voters are leaning toward approving both. Changes in the Democratic leadership are not expected.

California will have a new governor, either U.S. Senator Pete Wilson or former San Francisco mayor Diane Feinstein. Sen. Wilson is a slight favorite but the race is close. If successful, Wilson will begin his tenure with strained relations with the Legislature. He endorsed the term limitation initiatives which are opposed by the leadership and rank and file of both parties in the Legislature.

Despite the fiscal crisis we do not expect the Legislature to turn to tobacco taxes for additional resources. Both parties feel Prop. 99 was a hard enough hit on tobacco for the time being. Individual legislators, however, will continue to harangue the industry and urge that we be taxed out of existence.

The fiscal crisis may have a beneficial effect. Debate will take place on whether dedicated funds, such as the Prop. 99 revenues, should be redirected to the general fund. While a four-fifths vote would be needed in the Legislature (a near impossibility), an initiative may be proposed that would accomplish the same objective. The new governor may well assume a leadership position on such an initiative.

The industry can expect health groups and their legislative champions to again come forward with anti-tobacco bills similar to those that failed in previous sessions. In all likelihood there will be a new death certificate bill, a measure disallowing the deductibility of tobacco advertising expenses and bills affecting vending and possibly sampling.

On the proactive side, the industry should consider running an anti-discrimination bill similar to the bill that passed the Legislature last year. That bill, unfortunately, was vetoed by Governor Deukmejian. The new governor may be more sympathetic.

California, along with other states, faces a new wave of local ordinances which are stronger and more damaging than earlier measures. We are facing ordinances that would ban smoking outright in public places such as workplaces, restaurants, bars, bingo parlors, etc.

At this time, the issue is not resolved, but there has been considerable discussion about running a bill seeking a pre-emption of local authorities to regulate in this area. A pre-

emption bill on sampling was introduced last year and moved smoothly through the lower house and the first committee of the upper house. It was discovered by the press which battered the industry. The author could not take the media pressure and dropped the bill after several days of bombardment.

As it stands now the industry may have to fight dozens of local ordinances one at a time, a prohibitively expensive and time-consuming process.

**PRO-ACTIVE PROPOSAL  
DISCRIMINATION**

**CALIFORNIA**

**LEGISLATIVE ACTION**      October 10, 1990

**STATE/LOCALITY:**      California

**ISSUE:**      Anti-discrimination

**SUMMARY:**      Prohibit employers, both public and private, from discriminating against existing or potential employees because they choose to smoke.

**SPONSOR:**      To be determined

**INTRO DATE:**      After first of year

**COMMITTEE:**

**LEGISLATIVE STATUS:** The industry last year was able to move a bill through the Legislature that prohibited employers from discriminating against employees who smoke. Unfortunately, the bill was vetoed by the governor because he did not want to create a new class of "protected citizens". Similar bills protecting non-English speaking people and HIV carriers were also vetoed.

California's new governor, either U.S. Senator Pete Wilson or former San Francisco Mayor Diane Feinstein, possess more liberal social attitudes. Another attempt should be made to secure an anti-discrimination statute.

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**INDUSTRY ACTION:**

**RESOURCES NEEDED**      YES/NO      DATE NEEDED

**ECONOMIC ANALYSIS/FACTSHEET?**      YES

An excellent case for enactment was developed last session, including statistical analysis of the smoking population by ethnicity and economic status. A collection of classified ads in which employers stated outright that smokers "need not apply" was compiled to underscore the problem.

**LEGAL MEMORANDUM?**      Completed

**EXPERT WITNESSES?** No need anticipated

**COALITION ALLIES?**

Allies last year included most of the major minority groups in the state including NAACF, MAPA, The Urban League, the ACLU, etc. We believe that coalition can be rebuilt.

**TI GRASSROOTS MOBILIZATION?** YES

Smokers rights groups created by the companies should be part of the coalition and can be used for direct-contact and letter writing programs.

**COMPANY RESOURCES?** YES Ongoing

This bill was developed and promoted last year by Philip Morris. All company and TI lobbyists joined in the effort. A similar approach should be utilized next year.

**PUBLIC AFFAIRS/MEDIA RESOURCES?** YES

The media, particularly in the minority communities, developed an interest in this bill. While we were able to handle media needs locally this year, we may want to have op-ed pieces developed in D.C.

**ADDITIONAL NEEDS?** Minority consultants

The TI used its Hispanic and Black community relations consultants last year to build a coalition and work with media. We will want to do so again.