



Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive

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MEMORANDUM

Date: May 12, 2003

To: The Honorable Edward Vincent, Chair
Members, Senate Governmental Organization Committee

From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael Gunning, Senior Legislative Advocate

Re: SCA 1 (Burton): Access to Government Information
Senate Governmental Organization Committee: May 13, 2003
PIFC Position: **Oppose Unless Amended**

The Personal Insurance Federation of California, representing insurers who write nearly 35% of all personal lines insurance sold in the state, including State Farm, Farmers Insurance, 21st Century, SAFECO, and Progressive Insurance Companies, **opposes SCA 1** by Senator Burton unless it is amended.

SCA proposes to amend the California Constitution to articulate the people's right of access to information concerning the conduct of the people's business, and providing that meetings and writings of public officials shall be open to public scrutiny. The bill further provides that any statutory provisions or rules that effectuate the right of access shall be broadly construed, and any that limit the right of access shall be narrowly construed.

PIFC does not object to the main purpose of SCA 1, which is to ensure the public's right of access to information concerning the conduct of the people's business, including meetings of public bodies and writings of public officials. PIFC's concerns with SCA 1 are limited to the potential effect of the bill on existing protections for trade secrets and other proprietary information which may be disclosed to governmental agencies for regulatory purposes, but which are currently protected from disclosure under existing law. Although SCA 1 provides in subsection (4) that this subdivision does not repeal or nullify, expressly or by implication, any statutory exception to the right of access, we are concerned that it could be construed to *modify* such provisions. This result is even more likely because SCA 1 provides in subsection (3) that it shall not supercede or *modify* the right of privacy, but in subsection (4) provides that it shall not repeal or *nullify* other exceptions. Use of this different terminology in these two sections may imply a different intent. In addition, the focus of the exception language is on law enforcement and prosecution records. Therefore, a court could construe this language more narrowly to apply to only these types of records, or could construe it to modify existing exclusions for trade secrets and other confidential records.

For these reasons, PIFC has recommended that SCA 1 be amended to address these concerns. Among other things, we have proposed that SCA 1 be amended to provide in subsection (b)(2) that nothing in this section, however, shall supercede or modify confidential protections already provided for by law. Thank you for your consideration of our concerns. If you have any questions regarding PIFC's position, please do not hesitate to contact Diane Colborn at (916) 442-6646.

cc: Senator Burton, Author
Ann Richardson, Deputy Legislative Secretary, Governor's Office
Senate Governmental Organization Committee
Richard Paul, Senate Republican Caucus
Senate Floor Analyses