

meeting

12/5/62

Memorandum No. 80(1962)

Subject: Study No. 52(L) - Sovereign Immunity (Senate Preprint Bills Nos. 10, 11, 12 and 13)

Attached are copies of Senate Preprint Bills Nos. 10, 11, 12 and 13. We will have to make a number of conforming changes in these bills. For example, the definitions in Senate Preprint Bill No. 10 will have to be conformed to the definitions contained in the general tort liability bill (Senate Preprint Bill No. 8). Other technical changes include, for example, the following: in Section 12 on page 7 of Senate Preprint Bill No. 10, the reference to "Part 5" should be to "Part 6."

We do not plan to discuss Senate Preprint Bills Nos. 10, 11 or 13 at the meeting unless some member of the Commission wishes to suggest a change in one of them.

For your information, however, the significant provisions in Senate Preprint Bill No. 10 are: Section 11007.4--on page 3 of the bill--which relates to state agencies; and Part 6--on pages 6 and 7 of the bill--which relates to local public entities. In connection with Part 6, we will need to make a technical change--we need to add a definition of local public entity. We propose to add the definition of local public entity contained in Section 970(b) of Senate Preprint Bill No. 9 and also to include the same definition in place of the definition contained in Section 989.6 on page 2 of Senate Preprint Bill No. 10.

The significant provisions in Senate Preprint Bill No. 11 are contained in Part 7 on pages 9-11 of the bill. We will have to make technical conforming changes in this bill.

With respect to Senate Preprint Bill No. 12, we wish to call your attention to Section 17002.5 which was approved in principle at the November meeting. Since we are imposing ownership liability under this bill, the staff suggests that the word "employee" be used in the bill instead of "officer, agent or employee" and that "employee" be defined to mean "officer, agent or employee"; but does not include an independent contractor. This would make the proposed bill consistent with our general recommendation relating to tort liability of public entities and public employees. We suggest that this change be considered by the Commission at the December meeting.

Respectfully submitted,

John H. DeMouly
Executive Secretary