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LEGISLATIVE NOTES

Litigious Era Ahead

Last month’s Legislative Notes dealt with the problems in distinguishing between valid Presidential Executive Orders which execute laws and invalid orders which amount to new legislation. The problems of Presidential Executive Orders do not stop there. Many laws give Presidents discretion to issue Executive Orders, within defined limits, to carry out the intent of Congress. Creating of new national monuments and restricting of oil and gas leases in federal waters are examples. The question is: When a President has issued Executive Orders in accordance with discretion Congress gave him, can a successor President merely issue Executive Orders to repeal them? The continued existence of newly created Lake Berryessa/Snow Mountain National Monument is one such pending issue. Can President Trump issue an Order repealing all or part of President Obama’s creation under the Antiquities Act? We can expect much litigation to resolve issues of this type in many fields.

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The full text of bills and the Legislative Analyst’s summary are available on the California Legislature Information website (Click Link Here).

CNPS positions on bills are available at CNPS Legislative Report (Click Link Here). Overview of CNPS Legislation Program (Click Link Here).