

jd536
11/30/87

Memorandum 87-103

Subject: Commission's Handbook of Practices and Procedures

Attached is a redraft of the Commission's Handbook of Practices and Procedures.

There are two portions that deserve your special attention. These portions reflect Commission decisions, but you have not previously seen the language of these portions. The two portions are:

- Acceptance of Amendments After Introduction in Legislature

(page 9)

- Relationship with State Bar (pages 10-11)

Appendix 7 is new. This Appendix includes additional Travel Expense Information. You have not previously seen this Appendix.

We suggest you read the entire Handbook, primarily to refresh your memory of Commission decisions concerning practices and procedures. We do not plan to review the Handbook, page by page, at the meeting. Please bring up for discussion at the meeting any portions of the Handbook you believe should be given further consideration by the Commission.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

CHAPTER 1. OFFICERS AND MEMBERS OF COMMISSION

OFFICERS

The officers of the Commission are the Chairperson^{1.1} and the Vice Chairperson. The term of office of the Chairperson and Vice Chairperson is one year, commencing on September 1 of each year.^{1.2} No officer is eligible to succeed himself or herself in the same office in which the officer has served a full term.^{1.3} However, an officer who has served for less than a full term may succeed himself or herself in the same office for a full term;^{1.4} and, where the Chairperson is reelected to office, the incumbent Vice Chairperson is eligible for reelection even though reelection may result in the Vice Chairperson succeeding himself or herself for another full term.^{1.5}

RECOGNITION OF SERVICE

The practice of the Commission is to present a plaque containing a gavel to each Chairperson shortly after the term as Chairperson ends. The cost of the plaque is financed by contributions from the other members of the Commission and the legal staff.^{1.6}

1.1. *CF.* Gov't Code § 8283 (the commission shall select one of its members chairman).

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A suitably framed certificate is awarded to members upon completion of their service on the Commission in substantially the following form:^{1.7}

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RECOGNITION OF DISTINGUISHED SERVICE AS MEMBER

Presented to

HOWARD R. WILLIAMS

In recognition of distinguished service as a member of the
California Law Revision Commission
1971-1979

Chairperson 1977-1979

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MATERIALS AND SUPPLIES

Binders for Commission materials. Some members of the Commission use binders to keep Commission material in a convenient form. Upon request to the Commission's office, a member of the Commission will be provided with the binders necessary for this purpose.

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Additional information concerning travel expense regulations and claims can be found in Appendix 7 to this Manual. Questions about travel claims or the procedure should be directed to the Administrative Assistant (Steve Zimmerman - (415) 494-1335).

CHAPTER 2. MEETINGS AND PROCEDURE

MEETINGS^{2.1}

Regular meetings ordinarily are scheduled for at least every other month. A meeting is not held during the month of August. Meetings are scheduled so that meetings are held in various cities throughout the state.^{2.2}

Depending on plane schedules, meeting times are normally scheduled as follows:^{2.3}

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MEETING AGENDA^{2.4}

Subjects that are of interest to persons who attend meetings as observers should be scheduled for consideration early in the meeting so that the meeting can be adjourned early if the agenda is completed. The staff is to schedule no more work for any particular meeting than can reasonably be considered at the meeting.

STAFF PREPARED MEETING MATERIALS

Staff-prepared meeting materials should be sent out so that Commission members will receive the materials no less than five days prior to the meeting.^{2.5} In preparing materials for the meeting, the staff should show changes in a current draft from the immediately preceding draft by strikeout and underscore or some other appropriate means, to the extent this can be done easily and without causing undue confusion.^{2.6} Commissioners are presumed to have read all the material to be considered at the meeting and the staff is to make its presentations on this assumption.

CONDUCT OF MEETING

Quorum. Five members of the Commission constitute a quorum and must be present before the Commission may act.^{2.7} Any action may be taken by a majority of those present if a quorum is present, but any final recommendation to the Legislature must be approved by a majority of those present at a time when a quorum is present with a minimum of four affirmative votes.^{2.8} The Chairperson is authorized to determine that fewer than five members constitutes a quorum for the purposes of a

2.4. Minutes, January 1969. See also Minutes, June 1968.

2.5. Minutes, April 1987; Minutes, September 1984.

2.6. Minutes, October 1987.

2.7. Minutes, April 1987.

2.8. Minutes, March 1959; Minutes, April 1963; Minutes, February 1966.

particular meeting and members attending the meeting are entitled to per diem and travel expenses, but in such case the members present act as a subcommittee and no final action shall be taken at such meeting.^{2.9}

Meeting starting time. Commission meetings are not commenced with the Commission acting as a subcommittee if absent members are known to be in the city where the meeting is being held and are known to be planning to attend the meeting.^{2.10} However, meetings should not be delayed more than 15 minutes from the originally scheduled starting time to await the arrival of an absent member who is known to be planning to attend the meeting.^{2.11}

Actions on adopted motion. Actions to send out tentative recommendations for review and comment or to submit recommendations to the Legislature and other Commission actions are made on a motion adopted by the Commission.^{2.12}

Roll call votes. A roll call vote shall be taken on any matter at the request of any member of the Commission.^{2.13} Votes are not recorded in the Minutes unless a member requests that the vote on a particular matter be so recorded; on rare occasions, a member will request that the Minutes reflect that the member voted against the action taken by the Commission.

Committees. The Commission has disapproved the use of standing subcommittees to initially review studies on the Commission's agenda and to submit their recommendations to the Commission.^{2.14}

Research consultants. Research consultants are requested to attend meetings from time to time.

2.9. Minutes, April 1987; Minutes, January 1958; Minutes, April 1963.

2.10. Minutes, April 1984.

2.11. Minutes, April 1987; Minutes, August 1985.

2.12. Minutes, April 1987; Minutes, January 1985.

2.13. Minutes, November 1965.

2.14. Minutes, January 1960; Minutes, May 1960.

Open meetings. Meetings of the Commission are open to the public and are subject to the provisions of the Bagley-Keene Open Meeting Act.^{2.15} Any person may attend as an observer and may address the Commission or participate in the discussion as authorized by the Chairperson.^{2.16} The agenda for each meeting is sent to those persons who normally attend the meetings as observers and to anyone else who requests a copy of the agenda or who may be interested in the subject matters of a particular meeting.

Termination of deliberations. The Chairperson should terminate prolonged deliberations on any matter by either bringing it to a vote when appropriate or referring the matter to the staff either for further research or redrafting.^{2.17}

REPORTS AND RECOMMENDATIONS

Listing of members approving report. The printed reports of the Commission are dated as of the month in which the Commission approves their printing and the names of the members of the Commission at the time of such approval are listed in the letter of transmittal.^{2.18}

Dissents. Dissenting votes of Commission members on all or part of a recommendation of the Commission are not reported in the recommendation. Rather, a statement is included in the Annual Report of the Commission stating in substance that "occasionally one or more members of the Commission may not join in all or part of a recommendation submitted to the Legislature by the Commission."^{2.19}

Editorial, technical, and conforming revisions.^{2.20} After the Commission has approved a recommendation for printing, the staff may make substantive or technical revisions in preparing the recommendation

2.15. Gov't Code §§ 11120-11131. See Appendix 6.

2.16. Minutes, February 1960; statement of existing practice.

2.17. Minutes, March 1959.

2.18. Minutes, October 1960.

2.19. Minutes, August 1960. See also Minutes, July 1960.

2.20. Minutes, October 1979.

for printing where necessary to conform to the Commission's policy decisions or to correct technical defects. Members of the Commission may submit suggested editorial revisions to the staff for consideration in preparing material for publication.

CONFIDENTIALITY OF COMMUNICATIONS TO COMMISSION^{2.21}

The Commission has adopted the following policy relating to confidentiality of communications received by the Commission:

(1) The Commission does not ordinarily receive communications on a confidential basis. The Commission will solicit a communication on a confidential basis only where the Commission has made a determination that the information contained in the communication is necessary for a Commission study and might not reasonably be obtainable without providing confidentiality. An unsolicited request for confidentiality will be considered by the Commission on an individual basis, applying the same standard of necessity. The notice on the cover of a Commission tentative recommendation should state that any comments received will be considered at a public meeting.

(2) A communication received under a Commission assurance of confidentiality will be considered by the Commission without knowledge of the identity of the author of the communication. The Commission staff will summarize the contents of the communication, quote from the communication, reproduce the communication with identifying markings deleted, or handle the communication in another appropriate way to protect the identify of the author from disclosure.

(3) The staff will protect the identity of the author of a communication received under a Commission assurance of confidentiality from disclosure. The staff will mark Commission files as confidential, segregate Commission files, destroy the communication, or take other appropriate action to preserve the author's identity from disclosure. This could be accomplished by filing confidential communications in a separate drawer or by referring to the existence of a confidential communication in the study file to which the communication relates.

2.21. Minutes, September 1987.

The staff will resist judicial proceedings to require disclosure of any communication received by the Commission under an assurance of confidentiality.

CHAPTER 3. RELATIONSHIP WITH LEGISLATURE

INTRODUCTION OF BILLS

Commission bills are ordinarily introduced by one of the legislative members of the Commission.^{3.1} The Commission is willing to allow other members of the Legislature to be coauthors of its bills.^{3.2} In such a case, the other legislators are selected by the Executive Secretary after consulting with the legislative members of the Commission. Ordinarily, Commission bills will be introduced in the form in which they are published by the Commission and later amended to reflect changes which the Commission believes desirable.^{3.3}

CONTACTING INDIVIDUAL MEMBERS OF LEGISLATURE^{3.4}

The Commission has considered whether and under what procedure the Executive Secretary should contact individual members of the Legislature to explain Commission bills. A member of the Legislature should not be contacted unless the member has raised questions about the Commission's bills in committee or otherwise and it seems likely that the member does not fully understand the Commission's recommendation or the reasons for it. If it appears desirable, the Executive Secretary may contact the member to answer such questions as the member may have about the bill and otherwise explain it. Care must

3.1. Minutes, January 1959.

3.2. Minutes, January 1959.

3.3. Minutes, January 1959.

3.4. Minutes, January 1971.

be taken not to appear to be advocating legislation in violation of Government Code Section 8288.^{3.5}

ACCEPTANCE OF AMENDMENTS AFTER INTRODUCTION IN LEGISLATURE^{3.6}

The legislative member of the Commission carrying the bill and the Executive Secretary are authorized to amend a Commission bill prior to at the time of the hearing on the bill to eliminate an objection to the bill where the amendment is a technical or nonpolicy amendment or where the failure to make the amendment would jeopardize the enactment of the bill. Where possible, the staff should submit the amendments to the members of the Commission in advance of making the amendments, either at a meeting or by distribution of a draft of the amendments to each member of the Commission. If this is not possible, the amendments made to the bill should be presented, at the first opportunity, to the Commission for review and approval or for revision. The authority of the legislative member, on his or her own initiative, to amend a bill the member is carrying for the Commission is not limited, but any amendments so made should be submitted to the members of the Commission using the procedure described above.

REQUEST FOR AUTHORITY TO CONTINUE EXISTING STUDIES^{3.7}

Each session a concurrent resolution is submitted to authorize continuance of existing studies and any new studies the Commission

3.5. Government Code Section 8288 provides:

8288. No employee of the Commission and no member appointed by the Governor shall, with respect to any proposed legislation concerning matters assigned to the Commission for study pursuant to Section 8293, advocate the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature as to such matters unless requested to do so by the committee or its chairperson. In no event shall an employee or member of the commission appointed by the Governor advocate the passage or defeat of any legislation or the approval or veto of any legislation by the Governor, in his or her official capacity as an employee or member.

3.6. Minutes, September 1987.

3.7. Statement of existing practice. This procedure is required by the Commission's enabling statute.

desires to undertake and to drop previously authorized studies from the Commission's agenda.

PROPOSING CHANGES IN LAWS ENACTED UPON COMMISSION RECOMMENDATION

The Commission has established that, as a matter of policy, unless there is a good reason for doing so, the Commission will not recommend to the Legislature changes in laws that have been enacted upon Commission recommendation.^{3.8}

PROPOSED LEGISLATION AFFECTING COMMISSION

The staff should immediately inform the Commission or members thereof when the staff becomes aware of pending legislation directly affecting the Commission.^{3.9}

CHAPTER 4. RELATIONSHIP WITH STATE BAR^{4.1}

The Commission seeks to work closely with the State Bar on major studies. The customary practice is to work with the appropriate State Bar Section to develop a recommendation that will be supported by the State Bar Section or to minimize the differences between the Commission and the State Bar Section.

Meeting materials are distributed to the designated representatives of the State Bar Section not later than the time the materials are distributed to members of the Commission. The State Bar Section provides the Commission with detailed comments concerning the meeting materials prior to the time the meeting materials are considered by the Commission. If time permits, these comments are distributed to each member of the Commission for study prior to the meeting. Representatives of the State Bar Section attend the meeting to answer questions concerning the comments previously sent to the Commission and to provide additional comments.

3.8. Minutes, December 1971.

3.9. Minutes, October 1986

4.1. Minutes, September 1987.

After a bill has been introduced to effectuate a recommendation, the State Bar Section reviews the bill and the official Comments set out in the Commission's recommendation to suggest technical and policy changes in the bill or the Comments.

The Chairperson and members of the staff sometimes meet with representatives of State Bar committees to discuss informally Commission recommendations when requested to do so by the State Bar committee.

CHAPTER 5. RELATIONSHIP WITH RESEARCH CONSULTANTS

COMPENSATION OF RESEARCH CONSULTANTS

Compensation of research consultants is on a modest scale, as paid in connection with public service rather than at regular professional rates.^{5.1} Payment is made in a lump sum (rather than on an hourly basis) under a contract made with the consultant.^{5.2} Partial payments may be made for portions of a research study that have been completed.

FORM AND CONTENTS OF CONSULTANT'S STUDY^{5.3}

Statement of scope of background study. The Commission considers it important that there be a clear understanding concerning the scope of the background study so that the background study includes an adequate discussion of those matters that the Commission believes are in need of study. For this reason, a statement of the scope of the study is prepared by the staff in cooperation with the Commission's consultant. The statement identifies those aspects of the topic to be studied that are considered by the Commission to be of particular

4.2. Minutes, March 1957.

4.3. Minutes, September 1956.

5.1. Minutes, June 1955.

5.2. Minutes, June 1955.

5.3. Minutes, January 1982.

importance. Where appropriate, the statement may indicate uniform or model acts or statutes of other jurisdictions that are to be considered in the background study. The statement is intended to ensure that the background study includes an adequate discussion of the matters that are described in the statement, but is not intended to restrict the consultant in any way. The consultant is completely free to include in the background study a discussion of any aspect of the topic the consultant believes should be discussed in the background study, whether or not included in the statement. The study may be written in such form and contain such discussion as the consultant believes is suitable for presentation of the subject matter of the study.

The staff prepares and presents for Commission consideration a draft of a statement of the scope of the study. If the consultant is not present at the time the draft of the statement is considered by the Commission, the staff draft of the statement as revised by the Commission is sent to the consultant. The consultant is requested to review the statement and suggest any additional aspects of the topic in need of study or other modifications of the statement. The suggestions of the consultant are reviewed by the Commission and any necessary changes made in the statement.

In some cases, the Commission may invite the consultant to meet with the Commission before commencing work on the background study to discuss the scope and methodology of the study so that the Commission will gain additional understanding of the subject matter and so that the background study will discuss all of the matters and include all of the information the Commission believes would be useful to the Commission in considering the particular topic.

Form and content of study. The consultant is completely free to determine the form and content of the background study, but the background study should include an adequate discussion of the specific matters that the statement of the scope of the study indicates should be discussed in the background study and such other matters as the consultant believes should be considered in the background study. The background study ordinarily is prepared in the form of one or more law review articles.

The Commission has found a background study most useful if it includes the following:

(1) An identification of the specific problems that may require legislative action.

(2) A discussion of existing California decisional and statutory law with respect to each such problem and, where the consultant considers it useful, a discussion of uniform and model acts, statutes of other jurisdictions, and other material.

(3) The alternative methods by which each problem might be solved, the advantages and disadvantages of each alternative, and the consultant's recommendations as to which alternative is best. The consultant is completely free to make such recommendations as the consultant considers appropriate or desirable.

If views expressed in a consultant's study are not in agreement with the final recommendation of the Commission on the subject, the consultant may be asked to review pertinent parts of the study. The consultant is not required, however, to conform the study to the views of the Commission, nor are any portions of the study eliminated when the study is published merely because they are inconsistent with the final action of the Commission.^{5.4} Whenever possible, the consultant's study is published in a California law review and may be republished in the Commission's recommendation. In some cases, a study may be published only in the Commission's recommendation. Studies are printed with a note explaining that the views expressed are not necessarily the views of the Commission.

PRESENTATIONS BY CONSULTANT TO OTHER PERSONS OR GROUPS^{5.5}

If the consultant makes any presentation of his or her background study and recommendations to any person or group, the consultant shall make clear at the time the presentation is made that:

(1) The consultant's recommendations are not recommendations of the Commission and do not represent the views or recommendations of the Commission.

5.4. Minutes, August 1960.

5.5. Minutes, January 1982.

(2) The Commission may or may not make recommendations on the particular matter and, if the Commission does make recommendations, those recommendations will be made in the Commission's printed report to the Legislature.

ADDITIONAL FUNDING OF CONSULTANT STUDIES^{5.6}

A consultant retained by the Commission for the preparation of a background study may seek to obtain grants or funding from foundations or other sources for the purpose of preparing the study required by the Commission, but no grant or funding shall be accepted by the consultant without the prior approval of the Commission, which approval shall be set out in the Minutes of the Meeting at which the approval was given.

REPORT ON STATUS OF RESEARCH STUDIES

The Executive Secretary is to submit for Commission review approximately every six months the status of each research study being prepared by an outside research consultant.^{5.7}

CERTIFICATES FOR CONSULTANTS

It is the practice of the Commission to present a certificate of distinguished service to consultants who satisfactorily complete their work for the Commission.

CHAPTER 6. PRINTING AND DISTRIBUTION POLICIES

DISTRIBUTION OF PRINTED RECOMMENDATIONS

The Executive Secretary determines when material should be printed.^{6.1} However, no pamphlet containing the recommendation of the Commission is distributed unless it has first been approved for printing and distribution by the Commission.

5.6. Minutes, September 1987.

5.7. Minutes, April 1971.

PUBLICATION OF COMMISSION MATERIAL IN LAW REVIEWS

A letter should be obtained from a law review publishing a Commission study stating that the Commission itself may republish the article in its pamphlet containing its recommendation to the Legislature.

Studies may be published in law reviews if they are accompanied by the substance of the following note:

This article was prepared to provide the California Law Revision Commission with background information to assist the Commission in its study of this subject. The opinions, conclusions, and recommendations contained in this article are entirely those of the author and do not necessarily represent or reflect the opinions, conclusions, or recommendations of the Law Revision Commission.

No tentative recommendation may be published in a law review unless Commission permission is first obtained.^{6.2} If a tentative recommendation is published in a law review or otherwise distributed, it should be accompanied by the substance of the following note.^{6.3}

This tentative recommendation is published here so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

6.1. Minutes, March 1960, revised to reflect changes in printing procedures.

6.2. Minutes, December 1965.

6.3. Minutes, June 1966.

CALIFORNIA LAW REVISION COMMISSION

Staff Draft

**HANDBOOK
of
PRACTICES AND PROCEDURES**

December 1987

California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

The purpose of this handbook is to state in a convenient form some of the policy decisions made by the California Law Revision Commission with respect to its practices and procedures. Except where a citation to a specific Commission decision or other authority is given, this handbook consists of statements of existing practice.

Rev. 11/27/87

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Staff-prepared meeting materials should be sent out so that Commission members will receive the materials no less than five days prior to the meeting.^{2.5} In preparing materials for the meeting, the staff should show changes in a current draft from the immediately preceding draft by strikeout and underscore or some other appropriate means, to the extent this can be done easily and without causing undue confusion.^{2.6} Commissioners are presumed to have read all the material to be considered at the meeting and the staff is to make its presentations on this assumption.

CONDUCT OF MEETING

Quorum. Five members of the Commission constitute a quorum and must be present before the Commission may act.^{2.7} Any action may be taken by a majority of those present if a quorum is present, but any final recommendation to the Legislature must be approved by a majority of those present at a time when a quorum is present with a minimum of four affirmative votes.^{2.8} The Chairperson is authorized to determine that fewer than five members constitutes a quorum for the purposes of a

2.4. Minutes, January 1969. See also Minutes, June 1968.

2.5. Minutes, April 1987; Minutes, September 1984.

2.6. Minutes, October 1987.

2.7. Minutes, April 1987.

2.8. Minutes, March 1959; Minutes, April 1963; Minutes, February 1966.

particular meeting and members attending the meeting are entitled to per diem and travel expenses, but in such case the members present act as a subcommittee and no final action shall be taken at such meeting.^{2.9}

Meeting starting time. Commission meetings are not commenced with the Commission acting as a subcommittee if absent members are known to be in the city where the meeting is being held and are known to be planning to attend the meeting.^{2.10} However, meetings should not be delayed more than 15 minutes from the originally scheduled starting time to await the arrival of an absent member who is known to be planning to attend the meeting.^{2.11}

Actions on adopted motion. Actions to send out tentative recommendations for review and comment or to submit recommendations to the Legislature and other Commission actions are made on a motion adopted by the Commission.^{2.12}

Roll call votes. A roll call vote shall be taken on any matter at the request of any member of the Commission.^{2.13} Votes are not recorded in the Minutes unless a member requests that the vote on a particular matter be so recorded; on rare occasions, a member will request that the Minutes reflect that the member voted against the action taken by the Commission.

Committees. The Commission has disapproved the use of standing subcommittees to initially review studies on the Commission's agenda and to submit their recommendations to the Commission.^{2.14}

Research consultants. Research consultants are requested to attend meetings from time to time.

2.9. Minutes, April 1987; Minutes, January 1958; Minutes, April 1963.

2.10. Minutes, April 1984.

2.11. Minutes, April 1987; Minutes, August 1985.

2.12. Minutes, April 1987; Minutes, January 1985.

2.13. Minutes, November 1965.

2.14. Minutes, January 1960; Minutes, May 1960.

Open meetings. Meetings of the Commission are open to the public and are subject to the provisions of the Bagley-Keene Open Meeting Act.^{2.15} Any person may attend as an observer and may address the Commission or participate in the discussion as authorized by the Chairperson.^{2.16} The agenda for each meeting is sent to those persons who normally attend the meetings as observers and to anyone else who requests a copy of the agenda or who may be interested in the subject matters of a particular meeting.

Termination of deliberations. The Chairperson should terminate prolonged deliberations on any matter by either bringing it to a vote when appropriate or referring the matter to the staff either for further research or redrafting.^{2.17}

REPORTS AND RECOMMENDATIONS

Listing of members approving report. The printed reports of the Commission are dated as of the month in which the Commission approves their printing and the names of the members of the Commission at the time of such approval are listed in the letter of transmittal.^{2.18}

Dissents. Dissenting votes of Commission members on all or part of a recommendation of the Commission are not reported in the recommendation. Rather, a statement is included in the Annual Report of the Commission stating in substance that "occasionally one or more members of the Commission may not join in all or part of a recommendation submitted to the Legislature by the Commission."^{2.19}

Editorial, technical, and conforming revisions.^{2.20} After the Commission has approved a recommendation for printing, the staff may make substantive or technical revisions in preparing the recommendation

2.15. Gov't Code §§ 11120-11131. See Appendix 6.

2.16. Minutes, February 1960; statement of existing practice.

2.17. Minutes, March 1959.

2.18. Minutes, October 1960.

2.19. Minutes, August 1960. See also Minutes, July 1960.

2.20. Minutes, October 1979.

for printing where necessary to conform to the Commission's policy decisions or to correct technical defects. Members of the Commission may submit suggested editorial revisions to the staff for consideration in preparing material for publication.

CONFIDENTIALITY OF COMMUNICATIONS TO COMMISSION^{2.21}

The Commission has adopted the following policy relating to confidentiality of communications received by the Commission:

(1) The Commission does not ordinarily receive communications on a confidential basis. The Commission will solicit a communication on a confidential basis only where the Commission has made a determination that the information contained in the communication is necessary for a Commission study and might not reasonably be obtainable without providing confidentiality. An unsolicited request for confidentiality will be considered by the Commission on an individual basis, applying the same standard of necessity. The notice on the cover of a Commission tentative recommendation should state that any comments received will be considered at a public meeting.

(2) A communication received under a Commission assurance of confidentiality will be considered by the Commission without knowledge of the identity of the author of the communication. The Commission staff will summarize the contents of the communication, quote from the communication, reproduce the communication with identifying markings deleted, or handle the communication in another appropriate way to protect the identify of the author from disclosure.

(3) The staff will protect the identity of the author of a communication received under a Commission assurance of confidentiality from disclosure. The staff will mark Commission files as confidential, segregate Commission files, destroy the communication, or take other appropriate action to preserve the author's identity from disclosure. This could be accomplished by filing confidential communications in a separate drawer or by referring to the existence of a confidential communication in the study file to which the communication relates.

2.21. Minutes, September 1987.

The staff will resist judicial proceedings to require disclosure of any communication received by the Commission under an assurance of confidentiality.

CHAPTER 3. RELATIONSHIP WITH LEGISLATURE

INTRODUCTION OF BILLS

Commission bills are ordinarily introduced by one of the legislative members of the Commission.^{3.1} The Commission is willing to allow other members of the Legislature to be coauthors of its bills.^{3.2} In such a case, the other legislators are selected by the Executive Secretary after consulting with the legislative members of the Commission. Ordinarily, Commission bills will be introduced in the form in which they are published by the Commission and later amended to reflect changes which the Commission believes desirable.^{3.3}

3.2

CONTACTING INDIVIDUAL MEMBERS OF LEGISLATURE^{3.4}

The Commission has considered whether and under what procedure the Executive Secretary should contact individual members of the Legislature to explain Commission bills. A member of the Legislature should not be contacted unless the member has raised questions about the Commission's bills in committee or otherwise and it seems likely that the member does not fully understand the Commission's recommendation or the reasons for it. If it appears desirable, the Executive Secretary may contact the member to answer such questions as the member may have about the bill and otherwise explain it. Care must

3.1. Minutes, January 1959.

3.2. Minutes, January 1959.

3.3. Minutes, January 1959.

3.4. Minutes, January 1971.

be taken not to appear to be advocating legislation in violation of Government Code Section 8288.^{3.5}

ACCEPTANCE OF AMENDMENTS AFTER INTRODUCTION IN LEGISLATURE^{3.6}

The legislative member of the Commission carrying the bill and the Executive Secretary are authorized to amend a Commission bill prior to at the time of the hearing on the bill to eliminate an objection to the bill where the amendment is a technical or nonpolicy amendment or where the failure to make the amendment would jeopardize the enactment of the bill. Where possible, the staff should submit the amendments to the members of the Commission in advance of making the amendments, either at a meeting or by distribution of a draft of the amendments to each member of the Commission. If this is not possible, the amendments made to the bill should be presented, at the first opportunity, to the Commission for review and approval or for revision. The authority of the legislative member, on his or her own initiative, to amend a bill the member is carrying for the Commission is not limited, but any amendments so made should be submitted to the members of the Commission using the procedure described above.

REQUEST FOR AUTHORITY TO CONTINUE EXISTING STUDIES^{3.7}

Each session a concurrent resolution is submitted to authorize continuance of existing studies and any new studies the Commission

3.5. Government Code Section 8288 provides:

8288. No employee of the Commission and no member appointed by the Governor shall, with respect to any proposed legislation concerning matters assigned to the Commission for study pursuant to Section 8293, advocate the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature as to such matters unless requested to do so by the committee or its chairperson. In no event shall an employee or member of the commission appointed by the Governor advocate the passage or defeat of any legislation or the approval or veto of any legislation by the Governor, in his or her official capacity as an employee or member.

3.6. Minutes, September 1987.

3.7. Statement of existing practice. This procedure is required by the Commission's enabling statute.

desires to undertake and to drop previously authorized studies from the Commission's agenda.

PROPOSING CHANGES IN LAWS ENACTED UPON COMMISSION RECOMMENDATION

The Commission has established that, as a matter of policy, unless there is a good reason for doing so, the Commission will not recommend to the Legislature changes in laws that have been enacted upon Commission recommendation.^{3.8}

PROPOSED LEGISLATION AFFECTING COMMISSION

The staff should immediately inform the Commission or members thereof when the staff becomes aware of pending legislation directly affecting the Commission.^{3.9}

CHAPTER 4. RELATIONSHIP WITH STATE BAR^{4.1}

The Commission seeks to work closely with the State Bar on major studies. The customary practice is to work with the appropriate State Bar Section to develop a recommendation that will be supported by the State Bar Section or to minimize the differences between the Commission and the State Bar Section.

Meeting materials are distributed to the designated representatives of the State Bar Section not later than the time the materials are distributed to members of the Commission. The State Bar Section provides the Commission with detailed comments concerning the meeting materials prior to the time the meeting materials are considered by the Commission. If time permits, these comments are distributed to each member of the Commission for study prior to the meeting. Representatives of the State Bar Section attend the meeting to answer questions concerning the comments previously sent to the Commission and to provide additional comments.

3.8. Minutes, December 1971.

3.9. Minutes, October 1986

4.1. Minutes, September 1987.

After a bill has been introduced to effectuate a recommendation, the State Bar Section reviews the bill and the official Comments set out in the Commission's recommendation to suggest technical and policy changes in the bill or the Comments.

The Chairperson and members of the staff sometimes meet with representatives of State Bar committees to discuss informally Commission recommendations when requested to do so by the State Bar committee.

CHAPTER 5. RELATIONSHIP WITH RESEARCH CONSULTANTS

COMPENSATION OF RESEARCH CONSULTANTS

Compensation of research consultants is on a modest scale, as paid in connection with public service rather than at regular professional rates.^{5.1} Payment is made in a lump sum (rather than on an hourly basis) under a contract made with the consultant.^{5.2} Partial payments may be made for portions of a research study that have been completed.

FORM AND CONTENTS OF CONSULTANT'S STUDY^{5.3}

Statement of scope of background study. The Commission considers it important that there be a clear understanding concerning the scope of the background study so that the background study includes an adequate discussion of those matters that the Commission believes are in need of study. For this reason, a statement of the scope of the study is prepared by the staff in cooperation with the Commission's consultant. The statement identifies those aspects of the topic to be studied that are considered by the Commission to be of particular

4.2. Minutes, March 1957.

4.3. Minutes, September 1956.

5.1. Minutes, June 1955.

5.2. Minutes, June 1955.

5.3. Minutes, January 1982.

importance. Where appropriate, the statement may indicate uniform or model acts or statutes of other jurisdictions that are to be considered in the background study. The statement is intended to ensure that the background study includes an adequate discussion of the matters that are described in the statement, but is not intended to restrict the consultant in any way. The consultant is completely free to include in the background study a discussion of any aspect of the topic the consultant believes should be discussed in the background study, whether or not included in the statement. The study may be written in such form and contain such discussion as the consultant believes is suitable for presentation of the subject matter of the study.

The staff prepares and presents for Commission consideration a draft of a statement of the scope of the study. If the consultant is not present at the time the draft of the statement is considered by the Commission, the staff draft of the statement as revised by the Commission is sent to the consultant. The consultant is requested to review the statement and suggest any additional aspects of the topic in need of study or other modifications of the statement. The suggestions of the consultant are reviewed by the Commission and any necessary changes made in the statement.

In some cases, the Commission may invite the consultant to meet with the Commission before commencing work on the background study to discuss the scope and methodology of the study so that the Commission will gain additional understanding of the subject matter and so that the background study will discuss all of the matters and include all of the information the Commission believes would be useful to the Commission in considering the particular topic.

Form and content of study. The consultant is completely free to determine the form and content of the background study, but the background study should include an adequate discussion of the specific matters that the statement of the scope of the study indicates should be discussed in the background study and such other matters as the consultant believes should be considered in the background study. The background study ordinarily is prepared in the form of one or more law review articles.

The Commission has found a background study most useful if it includes the following:

(1) An identification of the specific problems that may require legislative action.

(2) A discussion of existing California decisional and statutory law with respect to each such problem and, where the consultant considers it useful, a discussion of uniform and model acts, statutes of other jurisdictions, and other material.

(3) The alternative methods by which each problem might be solved, the advantages and disadvantages of each alternative, and the consultant's recommendations as to which alternative is best. The consultant is completely free to make such recommendations as the consultant considers appropriate or desirable.

If views expressed in a consultant's study are not in agreement with the final recommendation of the Commission on the subject, the consultant may be asked to review pertinent parts of the study. The consultant is not required, however, to conform the study to the views of the Commission, nor are any portions of the study eliminated when the study is published merely because they are inconsistent with the final action of the Commission.^{5.4} Whenever possible, the consultant's study is published in a California law review and may be republished in the Commission's recommendation. In some cases, a study may be published only in the Commission's recommendation. Studies are printed with a note explaining that the views expressed are not necessarily the views of the Commission.

PRESENTATIONS BY CONSULTANT TO OTHER PERSONS OR GROUPS^{5.5}

If the consultant makes any presentation of his or her background study and recommendations to any person or group, the consultant shall make clear at the time the presentation is made that:

(1) The consultant's recommendations are not recommendations of the Commission and do not represent the views or recommendations of the Commission.

5.4. Minutes, August 1960.

5.5. Minutes, January 1982.

(2) The Commission may or may not make recommendations on the particular matter and, if the Commission does make recommendations, those recommendations will be made in the Commission's printed report to the Legislature.

ADDITIONAL FUNDING OF CONSULTANT STUDIES^{5.6}

A consultant retained by the Commission for the preparation of a background study may seek to obtain grants or funding from foundations or other sources for the purpose of preparing the study required by the Commission, but no grant or funding shall be accepted by the consultant without the prior approval of the Commission, which approval shall be set out in the Minutes of the Meeting at which the approval was given.

REPORT ON STATUS OF RESEARCH STUDIES

The Executive Secretary is to submit for Commission review approximately every six months the status of each research study being prepared by an outside research consultant.^{5.7}

CERTIFICATES FOR CONSULTANTS

It is the practice of the Commission to present a certificate of distinguished service to consultants who satisfactorily complete their work for the Commission.

CHAPTER 6. PRINTING AND DISTRIBUTION POLICIES

DISTRIBUTION OF PRINTED RECOMMENDATIONS

The Executive Secretary determines when material should be printed.^{6.1} However, no pamphlet containing the recommendation of the Commission is distributed unless it has first been approved for printing and distribution by the Commission.

5.6. Minutes, September 1987.

5.7. Minutes, April 1971.

PUBLICATION OF COMMISSION MATERIAL IN LAW REVIEWS

A letter should be obtained from a law review publishing a Commission study stating that the Commission itself may republish the article in its pamphlet containing its recommendation to the Legislature.

Studies may be published in law reviews if they are accompanied by the substance of the following note:

This article was prepared to provide the California Law Revision Commission with background information to assist the Commission in its study of this subject. The opinions, conclusions, and recommendations contained in this article are entirely those of the author and do not necessarily represent or reflect the opinions, conclusions, or recommendations of the Law Revision Commission.

No tentative recommendation may be published in a law review unless Commission permission is first obtained.^{6.2} If a tentative recommendation is published in a law review or otherwise distributed, it should be accompanied by the substance of the following note.^{6.3}

This tentative recommendation is published here so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

6.1. Minutes, March 1960, revised to reflect changes in printing procedures.

6.2. Minutes, December 1965.

6.3. Minutes, June 1966.

NUMBER OF COPIES PRINTED

Ordinarily 1,400 copies of each Annual Report are printed. Ordinarily 1,400 copies of each recommendation and study are printed, but a lesser number may be printed if the particular recommendation is not of general interest. The State Printer holds 300 of these copies (unbound) for incorporation into the bound volume of Commission reports, recommendations, and studies. Three hundred copies of the bound volume are printed. In some cases, more copies of a particular publication may be printed.

DISTRIBUTION

Bound volumes. A copy of the bound volume is sent to each of the following:

- Library of Congress
- Libraries of the U.S. Supreme Court
- California State Library
- Libraries of the several district courts of appeal
- Libraries of the Judicial Council
- California county law libraries on the Commission's mailing list
- California law school libraries on the Commission's mailing list (exchange law reviews for Commission publications)
- California Continuing Education of the Bar
- Members of the Law Revision Commission (past and present)
- Department of Justice (four offices)
- The Governor
- The Legislative Counsel
- West Publishing Company
- Bancroft-Whitney Publishing Company
- Libraries of the State Bar of California

Distribution to private law firms or to out-of-state libraries is not made.^{6.4} Distribution is made on an exchange basis with the New York Law Revision Commission and with similar agencies in a few other states and foreign countries. Copies of the bound volume also are sent to certain other persons and agencies at the discretion of the Executive Secretary.

6.4. Minutes, May 1959.

Distribution to the members of the Legislature is not made automatically. Members of the Legislature are send a complementary copy upon request.

Printed recommendation and study pamphlets. Copies of all free material printed by the Commission are ordinarily sent to approximately 700 addresses, including the following:^{6.5}

Members of the Legislature who request a copy
Heads of all state departments who request a copy
California State Bar
Special State Bar committees (if any)
Law reviews published at California law schools
Legal newspapers published in California
Other persons and agencies on the Commission's mailing list
not included above.

When persons who are on the Commission's mailing list leave office, their successors are given the opportunity to be placed on the list.^{6.6}

Unpublished studies. The Executive Secretary may send a copy of an unpublished study of the Commission to a person requesting it.^{6.7} A "warning note" is included on the study indicating that the study is not a recommendation of the Commission and that no part of the study may be published without prior written consent of the Commission.^{6.8}

SALE OF COMMISSION PUBLICATIONS

The Commission has a liberal policy on distribution of its free printed pamphlets and distributes them upon request. However, where it is necessary that a charge be made for the Commission's publications, arrangements for the sale are made with the Documents and Publications Section of the Department of General Services.^{6.9}

COOPERATION WITH CONTINUING EDUCATION OF THE BAR

The Commission has published several publications in cooperation

6.5. Minutes, December 1956.

6.6. Minutes, August 1957.

6.7. Minutes, February 1960.

6.8. Minutes, February 1960.

6.9. Minutes, August 1962.

with California Continuing Education of the Bar (CEB). These publications have been published primarily for CEB use in connection with programs designed to instruct lawyers concerning major legislative enactments that have resulted from Commission recommendations. The cost of the publication has been paid entirely or substantially by CEB and CEB handles the sale and distribution of the publication. The Commission receives about 400 copies (300 for the bound volume) for its own use in its continuing study of the new legislation.

CHAPTER 7. DELEGATION OF AUTHORITY CONCERNING
PERSONNEL AND FISCAL MATTERS

PERSONNEL AND FISCAL MATTERS GENERALLY^{7.1}

Both the Chairperson and the Executive Secretary are authorized to sign on behalf of the Commission the necessary documents giving one or more Commissioners and employees authority to sign personnel and financial documents. (As of December 1986, the Chairperson, Executive Secretary, and Assistant Executive Secretary are authorized to sign all such documents; the Administrative Assistant is authorized to sign personnel documents and certain other documents.)

The Executive Secretary is authorized to determine the particular types of documents that the Assistant Executive Secretary and other Commission employees will sign as a matter of practice.

PERSONNEL MATTERS^{7.2}

Appointments, promotions to higher level positions, and involuntary terminations of persons to or from positions as Executive Secretary, Assistant Executive Secretary, and other full-time attorney positions on the Commission staff shall first be approved by the Commission. In the case of an appointment of a person to a full-time attorney position (other than Executive Secretary or Assistant Executive Secretary), the approval of the Chairperson, or the Vice

7.1. Minutes, October 1965.

7.2. Minutes, October 1965; Minutes, October 1971.

Chairperson in case of the unavailability of the Chairperson, shall be obtained before the appointment is made but Commission approval is not necessary.

The Executive Secretary is authorized to take all actions, other than those specified in the first paragraph of this section, with respect to appointment, promotions, terminations, leave, merit increases, other salary increases, and the like, for Commission employees other than the Executive Secretary. Any other person authorized to sign personnel documents has similar authority but, except in emergency circumstances, this authority should be exercised only after consulting with the Executive Secretary. It is understood that no such action shall be taken over the objection of the employee involved unless the Chairperson or the Commission first indicates approval of the action proposed to be taken by the Executive Secretary.

The Chairperson, or the Vice Chairperson in case of the unavailability of the Chairperson, is authorized to take all actions, other than those specified in the first paragraph of this section, with respect to appointment, termination, leave, merit increases, and other salary increases, and similar matters for the position of Executive Secretary. The Assistant Executive Secretary, or the Administrative Assistant in case of the unavailability of the Assistant Executive Secretary, is authorized to approve sick leave and vacation leave requests of the Executive Secretary.

OUT-OF-STATE TRAVEL^{7.3}

The Chairperson, or the Vice Chairperson in case of the unavailability of the Chairperson, is authorized to approve requests for authorization by the Department of Finance and the Governor of unbudgeted out-of-state travel by members of the Commission's staff. (Requests for budgeted out-of-state travel are presented for approval by the Department of Finance and Governor by submission of the necessary document by the Executive Secretary.)

7.3. Minutes, October 1965.

RESEARCH CONTRACTS AND LEASES

The Executive Secretary is authorized to sign on behalf of the Commission all leases and contracts previously approved by the Commission.^{7.4}

The Executive Secretary is authorized to execute contracts covering equipment maintenance, equipment rental, subscriptions, and the like.

CHAPTER 8. EVALUATION OF SUGGESTED TOPICS

PROCEDURES FOR DETERMINATION OF NEW TOPICS^{8.1}

The decision as to which new topics will be requested for authorization at a particular legislative session ordinarily is made at one meeting during the year. Consideration of the possible new topics at the same time gives the Commission a useful overview for deciding which new topics to request authority to study.

A topic may be brought to the Commission's attention when the suggestion is received, but those topics that appear to be suitable for study should be written up for possible inclusion in the Annual Report and a determination whether to request authority to study the topics is considered at the time the Annual Report is approved for printing.

7.4. Minutes, July 1964

8.1. Minutes, September 1970.

CHAPTER 9. CONFLICTS OF INTEREST

Provisions of the Political Reform Act of 1974 (Gov't Code § 81000 et seq.) and the Commission's Conflict of Interest Code pertain to disclosure of financial interests, disqualification from participating in decision-making, and dealings with lobbyists. The following discussion outlines the most important aspects of this body of law and regulations.

SELECTED PROVISIONS OF POLITICAL REFORM ACT (as amended 1985, current through 1987 session)

Government Code § 87100:

87100. No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Government Code Section 87102 provides that the "requirements of Section 87100 are in addition to the requirements of . . . any Conflict of Interest Code adopted" by the agency.

Government Code § 87101:

87101. Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his participation legally required for purposes of this section.

Government Code § 87103:

87103. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (a) Any business entity in which the public official has

a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

Government Code § 87300:

87300. Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

COMMISSION'S CONFLICT OF INTEREST CODE

The following materials constitute the Commission's Conflict of Interest Code. The staff will advise designated employees under the Code when financial statements are due and will make necessary forms and other materials available. It is our understanding with the Fair Political Practices Commission that if the Law Revision Commission begins to consider a topic which could affect a type of interest not described in Disclosure Category 1 of the Appendix to the Conflict of Interest Code, the Disclosure Category must be amended within 90 days

of the beginning of consideration of the topic. (Letter from Sarah T. Cameron, Deputy Chief for Conflicts of Interest, to Stan Ulrich, September 15, 1980.)

The Commission's Conflict of Interest Code, including the Appendix relating to designated employees and disclosure categories, reads as follows:

**CONFLICT OF INTEREST CODE FOR
THE CALIFORNIA LAW REVISION COMMISSION**

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix A in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Law Revision Commission.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with their agencies. Upon receipt of the statements of Commissioners and the Executive Secretary, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

APPENDIX A

DESIGNATED EMPLOYEES

<u>Designated Employees</u>	<u>Disclosure Categories</u>
Commission Member (appointed by Governor)	1, 2
Legislative Counsel	1, 2
Executive Secretary	1, 2, 3
Assistant Executive Secretary	1, 2, 3
Staff attorneys	1
Administrative Assistant	2, 3

DISCLOSURE CATEGORIES

Category 1

A designated employee in this category must disclose the following:

1. Interests in real property.
2. Investments in business entities listed below.
3. Personal income from entities or persons listed below.
4. Business entity income from entities or persons listed below.
5. Business positions in entities listed below.

The following entities, in the jurisdiction of California, constitute the financial interests which foreseeably may be materially affected by a Law Revision Commission decision:

1. Banks, savings and loan institutions, credit unions, and other financial institutions.
2. Mortgage brokers.
3. Collection agencies.
4. Any entities or persons whose primary activity in California is the making of secured or unsecured loans.
5. Any entities or persons whose primary activity in California is the leasing or development of real estate.
6. Any entities or persons whose primary activity in California is the leasing of personal property.
7. Insurance companies.
8. Public entities, so long as the income is not excluded by Government Code Section 82030(b)(2).
9. Title insurance companies.
10. Newspaper companies.
11. Corporate sureties.
12. Adoption agencies.
13. Persons engaging in private placing for adoption of more than one child per year.
14. Privately owned public utilities.
15. Law firms.

Category 2

A designated employee in this category must disclose business entities in which he or she has an investment and sources of income if the business entities or sources of income are of the type which within the previous two years contracted with the Law Revision Commission to provide leased space or consulting services to or on behalf of the Law Revision Commission.

Category 3

A designated employee in this category must disclose business entities in which he or she has an investment and sources of income if the business entities or sources of income are of the type which within the previous two years

contracted with the Law Revision Commission to provide equipment, materials, supplies, or services (other than consulting services) to or on behalf of the Law Revision Commission.

PROVISIONS RELATING TO LOBBYISTS (current through 1987 session)

Government Code Section 86203, in the chapter of the Political Reform Act dealing with lobbyists, makes it unlawful for a lobbyist to make a gift of more than \$10 in a calendar month to "one person." Government Code Section 86204 makes it unlawful for "any person knowingly to receive" a gift that is unlawful under Section 86203. For these purposes, "gift" is defined in Government Code Section 82028. Subdivision (b)(2) of this section excludes from the definition any gift that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

APPENDIX 1

GOVERNMENT CODE SECTIONS 8280-8297*

relating to

CALIFORNIA LAW REVISION COMMISSION

Article 2. California Law Revision Commission

8280. There is created in the State Government the California Law Revision Commission.

8281. The commission consists of one Member of the Senate appointed by the Committee on Rules, one Member of the Assembly appointed by the Speaker, and seven additional members appointed by the Governor with the advice and consent of the Senate. The Legislative Counsel shall be an ex officio member of the commission.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this article, those Members of the Legislature shall constitute a joint interim investigating committee on the subject of this article and as a joint interim investigating committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.

The members appointed by the Governor shall be appointed for a term of four years and shall hold office until the appointment and qualification of their successors. The terms of the members first appointed shall not commence earlier than October 1, 1953, and shall expire as follows: four on October 1, 1955, and three on October 1, 1957. When a vacancy occurs in any office filled by appointment by the Governor, he or she shall appoint a person to the office, who shall hold office for the balance of the unexpired term of his or her predecessor.

8282. (a) The members of the commission shall serve without compensation, except that each member appointed by the Governor shall receive fifty dollars (\$50) for each day's attendance at a meeting of the commission.

(b) In addition, each member shall be allowed actual expenses incurred in the discharge of his or her duties, including travel expenses.

* Added by Section 2, Chapter 1445 of the Statutes of 1953 and amended by Section 1, Chapter 61 of the Statutes of 1960 (1st Ex. Sess.), Section 110, Chapter 371 of the Statutes of 1965, Section 1, Chapter 228 of the Statutes of 1978, Section 2, Chapter 1106 of the Statutes of 1981, and renumbered by Section 2, Chapter 1335 of the Statutes of 1984.

8283. The commission shall select one of its members chairperson.

8284. The commission may appoint an executive secretary and fix his or her compensation, in accordance with law.

8285. The commission may employ and fix the compensation, in accordance with law, of such professional, clerical and other assistants as may be necessary.

8286. The material of the State Library shall be made available to the commission. All state agencies, and other official state organizations, and all persons connected therewith, shall give the commission full information, and reasonable assistance in the matters of research requiring recourse to them, or to data within their knowledge or control.

8287. The Board of Governor of the State Bar shall assist the commission in any manner the commission may request within the scope of its powers or duties.

8288. No employee of the commission and no member appointed by the Governor shall, with respect to any proposed legislation concerning matters assigned to the commission for study pursuant to Section 8293, advocate the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature as to such matters unless requested to do so by the committee or its chairperson. In no event shall an employee or member of the commission appointed by the Governor advocate the passage or defeat of any legislation or the approval or veto of any legislation by the Governor, in his or her official capacity as an employee or member.

8289. The commission shall, within the limitations imposed by Section 8293:

(a) Examine the common law and statutes of the state and judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms.

(b) Receive and consider proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies.

(c) Receive and consider suggestions from judges, justices, public officials, lawyers, and the public generally as to defects and anachronisms in the law.

(d) Recommend, from time to time, such changes in the law as it deems necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state into harmony with modern conditions.

8290. The commission shall recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the Supreme Court of the state or the Supreme Court of the United States.

8291. The commission shall submit its reports, and its recommendations as to revision of the laws, to the Governor and the Legislature, and shall distribute them to the governor, the Members of the Legislature, and the heads of all state departments.

8292. The commission may, within the limitations imposed by Section 9293, include in its report the legislative measures proposed by it to effect the adoption or enactment of the proposed revision. The report may be accompanied by exhibits of various changes, modifications, improvements, and suggested enactments prepared or proposed by the Commission with a full and accurate index thereto.

8293. The commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress and a list of topics intended for future consideration. After the filing of its first report the commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report which are thereafter approved for its study by concurrent resolution of the Legislature. The commission shall also study any topic which the Legislature, by concurrent resolution, refers to it for study.

8294. The reports, exhibits, and proposed legislative measures shall be printed by the State Printing Office under the supervision of the commission. The exhibits shall be so printed as to show in the readiest manner the changes and repeals proposed by the commission.

8295. The commission shall confer and cooperate with any legislative committee on revision of the law and may contract with any the committee for the rendition of service, by either for the other, in the work of revision.

8296. The commission may cooperate with any bar association or other learned, professional, or scientific association, institution or foundation in any manner suitable for the fulfillment of the purposes of this article.

8297. The commission may, with the approval of the Director of General Services, enter into, amend and terminate contracts with colleges, universities, schools of law or other research institutions, or with qualified individuals for the purposes of research.

APPENDIX 2

BIOGRAPHIES OF COMMISSION MEMBERS AND STAFF

RESUME

Roger Arnebergh
14123 Victory Blvd.
Van Nuys, CA 91401
(818)988-8222

PROFESSIONAL EXPERIENCE

- 1973-85 Practice of Law
- 1953-73 City Attorney of Los Angeles. Elected Primary Election 1953. Reelected in Primaries 1957, 1961, 1965, and 1969.
- 1944-53 Los Angeles City Attorney's Office - Civil Division. Specialized in utility and zoning matters, special litigation, and drafting ordinances.
- 1941-44 Los Angeles City Attorney - Criminal Division. Served in various capacities, including Trial Deputy and Chief Deputy, Criminal Division.
- 1937-41 Assistant Secretary and Attorney - Pacific Mutual Insurance Co.
- 1936-37 Claims Department, Pacific Mutual Life Insurance Co.
- 1935 Received LLB degree, passed California Bar Examination, and admitted to State Bar, Friday, December 13, 1935.
- Also admitted to practice in Federal District Court (1937); in Federal Circuit Court (1949); and in United States Supreme Court (1949).

OTHER OFFICES AND AWARDS

- Member, California Law Revision Commission, 1968-69, 1984-present.
- President of National Institute of Municipal Law Officers, 1959-60.
- President, City Attorney Section of League of California Cities, 1961.
- Freedom Award for Distinguished Contribution to Law Enforcement, 1968.
- Award for Distinguished Public Service, National Institute of Municipal Law Officers, 1964.
- Honorary Doctor of Law Degree, 1965 and 1968.
- Service Award, Biola University, 1981. (Member of Board of Trustees for 25 years.) Biola is an accredited university.

ARTHUR K. MARSHALL

Arthur K. Marshall has served as Presiding Judge, Appellate Department, Los Angeles County Superior Court, Supervising Judge of the Probate Department and the Pretrial Department, Judge of the Municipal Court and Commissioner of the Superior Court.

He is Chancellor of the International Academy of Estate Trust Law; member, Section of Real Property, Probate and Trust Law, American Bar Association; Chairman, Probate Law Consulting Group, California Board of Legal Specification (1983-); former member and advisor to the Executive Committee of the State Bar Probate, Estate Planning and Trust Section (1972-83).

Judge Marshall was Judge of the Year, Los Angeles Lawyers Club, 1975; the first recipient of the Los Angeles County Bar Probate and Trust Law Section's "Arthur K. Marshall Probate and Trust Award", 1981.

Governor Deukmejian has appointed him to the California Law Revision Commission (1984-).

He was Lecturer on Probate Procedure and State and Local Taxation, University of Southern California Law School (1955-1976). He is the author of "California State and Local Taxation" (3 volumes, West Publishing Company), and "Guide to Law and Motion, Writs, Discovery and Settlement" (West Publishing Company).

Now retired, he is active in the arbitration field, law and motion matters and in numerous probate estates as counsel and as executor, administrator and trustee.

RESUME

EDWIN K. MARZEC

Telephone: 213/393-8277
213/820-2282

Family Status: Married; two children
Date of Birth: April 15, 1947
Health: Excellent

EDUCATION:

University of Southern California; Bachelor of Science, Business Administration - 1969
University of Southern California; Master of Business Administration; Management and Marketing - 1971
University of Southern California Law Center; Juris Doctor - 1973

WORK EXPERIENCE:

Peat, Marwick, Mitchell & Company; Tax Specialist - 1972 to 1974
Mihaly, Schuyler & Burton; Associate Attorney, Specializing in Corporations and International Business and Tax Law - 1974 to 1975
Balaban, Berman, Selan & Schaeffer; Specializing in Corporate, Commercial and Entertainment Law - 1975 to 1976
Tyre & Kamins - Century City - Of Counsel; Business Litigation and Commercial Law - 1982

APPOINTED COMMISSIONS

California Law Revision Commission - Member appointed by Governor of the State of California to review and revise California laws and advise Governor and State Legislature.

Chairman - Los Angeles County Judicial Procedures Commission; Coordinate and review proposed judicial reforms and advise the Los Angeles County Board of Supervisors.

JUDICIAL EXPERIENCE:

Judge Pro Tem Panel, Santa Monica Municipal Court
Judge Pro Tem Panel, West Los Angeles Municipal Court
Judge Pro Tem Panel, Los Angeles Central District
Judge Pro Tem Panel, Santa Monica Small Claims Court
Judge Pro Tem Panel, Los Angeles Central District Traffic Court
Arbitration Panel, Santa Monica Court
American Bar Association
National Appellate Advocacy Competition Judge

TIM PAONE
6150 West View Drive
Orange, CA 92669

PERSONAL
BACKGROUND:

Born: December 21, 1949, in Batavia, New York.
Married to Kathleen Paone.
California resident for 34 years.
Orange County resident for 30 years.

EDUCATIONAL
BACKGROUND:

University of Southern California (J.D., 1975)
University of California at Santa Barbara
(B.A., Political Science, 1972)

PROFESSIONAL
BACKGROUND:

Senior Partner
Paone, Genovese, Callahan, McHolm & Winton
1470 Jamboree Road, P.O. Box 7760
Newport Beach, California 92658-7760
(1981 to present)

Law Clerk, Associate Attorney, Partner
Virtue & Scheck, Incorporated
Newport Beach, California
(1975 to 1981)

PROFESSIONAL
AFFILIATIONS:

Orange County Bar Association
Business Litigation Section
Real Estate Section
Land Use and Environmental Law Committee

American Bar Association
Litigation Section
Local Government Section
Committee on Land Use, Planning and Zoning

State Bar of California

APPOINTED
POSITIONS:

Huntington Beach Planning Commission
Member: 1978-1979 (Appointee of City Council)
1981-1983 (Appointee of Councilman
Don McAllister)

Chairman: 1979
1982-1983

BRIEF BIOGRAPHY OF
FORREST A. PLANT

Born in Sacramento, California, December 17, 1924.

Raised in City of Davis, California, where attended public schools.

Graduated from undergraduate school at the University of California, Berkeley, with membership in Phi Beta Kappa.

Served as a gunnery officer on the heavy cruiser U.S.S. Boston in the Pacific during World War II.

Received Doctor of Jurisprudence degree from Boalt School of Law, University of California, Berkeley, 1949.

Has practiced law in Sacramento from 1949 to date in association with and as a member (since 1955) of the law firm of Diepenbrock, Wulff, Plant & Hannegan.

Member, Judicial Council of the State of California (1972-1976), a Constitutional public agency. (Served on Executive Committee of the Council.)

Member, Board of Regents, University of California (1978-79).

University of California Alumni Association. President (1977-1979), President-elect (1976-1977), First Vice President (1974-1975), and Member of the Alumni Council (1972-1979).

Member, Board of Trustees, University of California Berkeley Foundation (1980-1986).

University of California Alumni Citation (1980).

University of California - Berkeley Fellow.

PROFESSIONAL ACTIVITIES:

President (1970-1971) State Bar of California and Member of its Board of Governors (1986-1971).

Member Board of Regents, American College of Trial Lawyers (1977-1981).

President (1967-1969) of the Crocker Art Gallery;
Trustee (1962-1974) of the Crocker Art Gallery.

Trustee: Sacramento Symphony Foundation, Crocker
Museum Foundation.

BUSINESS ACTIVITIES:

Member of Board of Directors of Lucky Stores, Inc.,
Point West Bank, Davis Lumber & Hardware Co.

CLUB MEMBERSHIPS:

Sutter Club (former member, Board of Directors);
Sacramento Rotary Club, President (1976-1977) and
former member of its Board of Directors;
Del Paso Country Club;
The Family (San Francisco).

Married (1949) to the former Shirley Boles.
Four sons - Forrest, Jr., Randall, Gregory and Brian.
Residence - 1515 - 13th Avenue, Sacramento, California 95818.

VAUGHN R. WALKER

P. O. Box 7880
San Francisco, CA 94120
(415) 983-1500

Professional Career:

1978 to present	Pillsbury, Madison & Sutro, Partner
1972 to 1978	Pillsbury, Madison & Sutro, Associate
1971 to 1972	Law Clerk, Honorable Robert T. Kelleher, United States District Court, Central District of California, Los Angeles
1970	Law Clerk, Los Angeles Superior Court, Appellate Department, Los Angeles

Educational Background:

1970	J.D., Stanford University
1966 and 1968	Intern, Securities & Exchange Commission, Washington D.C.
1966 to 1967	Woodrow Wilson Fellow, University of California (Berkeley)
1966	A.B., University of Michigan (high honors and distinction).

Civic and Professional Associations (Positions held):

Lawyers' Club of San Francisco - President (1986-),
President-elect (1985-86), Vice President (1984-85),
Treasurer (1983-84), Secretary (1983), Board of Governors
(1981-83).

Junior Achievement of the Bay Area - Director (1979-83).

Theatre of Yugen - Director (1980-).

United San Francisco Republican Finance Committee - Treasurer
(1983-86), Member (1978-85).

Republican Alliance - President (1974-77).

Birthdate and Place: February 27, 1944 at Watseka, Illinois.

BIOGRAPHICAL SKETCH

ANN STODDEN
PROBATE COMMISSIONER

Miss Stodden has been the Probate Commissioner and Supervising Probate Attorney in Los Angeles County since 1975. She has been employed in the capacity of Probate Attorney and Assistant Supervising Probate Attorney by the Los Angeles Superior Court since March 10, 1960. Prior to coming with the Court, she was associated with the law firm of McCutchen, Black, Harnagel and Shea.

She received both her undergraduate and law degrees from the University of Southern California.

Miss Stodden has devoted much time in the field of probate to legal education and to public speaking. She has been active in the Continuing Education of the Bar Program and in speaking before various legal groups.

She is on the Executive Board of the Estate Planning Trust and Probate Section of the State Bar.

She is the co-author of the, "West California Probate Code Forms" books.

JOHN H. DEMOULLY
Executive Secretary

PROFESSIONAL
EXPERIENCE:

Executive Secretary, California Law Revision
Commission, 1959 to date

Chief Deputy Legislative Counsel - Oregon,
1954-1959

Assistant Professor (Research Attorney) -
University of Oregon, Bureau of Municipal Research
and Service, 1953-1954

Assistant Reviser - Oregon Statute Revision
Council, 1951-1953

EDUCATION:

University of Minnesota B.S.L. 1949
J.D. 1951 (class rank - first)

Order of the Coif

Minnesota Law Review
Teaching Assistant in Legislation (last two years
of law school)

ADMISSION TO PRACTICE:

Admitted to practice: United States Supreme Court,
California, Oregon, and Minnesota

Member: State Bar of California, Oregon State Bar

OTHER PROFESSIONAL
ACTIVITIES:

Associate Member, National Conference of Commis-
sioners on Uniform State Laws

Member, Advisory Committee to Pacific Law Journal

Lecturer and consultant for Continuing Education
of the Bar

Lecturer in Law, Stanford Law School, 1959-1975

Member Executive Committee of National Legislative
Conference 1965-1967

Panel Member - State Bar Convention, American
Association of Law Schools meeting, National
Legislative Conference, and other organizations

Publications in American Bar Association Journal,
Oregon Law Review, and Minnesota Law Review

March 1987

NATHANIEL STERLING
Assistant Executive Secretary
California Law Revision Commission

PROFESSIONAL EXPERIENCE Reference Clerk, Government Documents Library
University of California, Berkeley (1965-67)

Attorney, California Law Revision Commission (1970-87)

EDUCATION University of California, Berkeley B.A. 1967 (Honors)

University of Virginia, School of Law (1967-68)
University Scholarship/ Virginia Reading Guide/
Research Assistant

University of California, Davis, School of Law
J.D. 1970 (Class Rank: 2)
UCD Law Review/ CEB Review of Legislation/
AmJur Award/ State Moot Court Competition/
Research and Writing Instructor/ Research Assistant

PROFESSIONAL INFORMATION California State Bar (1971)
State of California, Superior Accomplishment Award (1975)
Reporter, Uniform Dormant Mineral Interest Act (1986)
Author, CEB and CLRC publications (1970-87)
California Community Colleges, Instructor's Credential
in Law

SELECTED LEGAL PUBLICATIONS Return Right for Former Owners of Land Taken by Eminent
Domain, 4 Pac. L. J. 65 (1973)

Joint Tenancy and Community Property in California, 14
Pac. L.J. 927 (1983); reprinted in 10 Commun. Prop. J.
157 (1983)

Division of Pensions: Reserved Jurisdiction Approach
Preferred, 11 Commun. Prop. J. 17 (1984)

OTHER ACTIVITIES Board of Directors, Barron Park Association
School Closure Committees, Palo Alto Unified School
District
PTA Officer
AYSO Soccer Coach

PERSONAL Born in Oakland, California, February 6, 1946
Lives in Palo Alto, California, with children

STAN G. ULRICH
Staff Counsel

PROFESSIONAL
EXPERIENCE:

Research Assistant, Professor David Bryden (1970-1972) and Professor David Louisell (1972)

Legal Assistant, Minnesota Attorney General, Opinions and Consumer Protection Divisions (Summer 1971)

Research Assistant, Minnesota Constitutional Study Commission (1971-1972)

Legal aid work--trial and appellate (1970-1972)

California Law Revision Commission, Legal Assistant (June 1972), Legal Counsel (February 1973), Staff Counsel (October 1975)

EDUCATION:

Macalester College, St. Paul, Minnesota, B.A. (1969) (political science)

University of Hawaii, East-West Center (Junior Year Program 1967-1968)

University of Minnesota, J.D. (1972); Minnesota Law Review

ADMISSION TO
PRACTICE:

California (1972)

PUBLICATIONS:

Law Review Note, Minnesota Law Review

Book on a Minnesota pollution controversy involving Reserve Mining Company

PERSONAL:

Born in Portland, Oregon, September 12, 1947; lives in Menlo park with Wife, Lucinda Surber.

ROBERT J. MURPHY III
Staff Counsel

LEGAL EXPERIENCE: Assistant Counsel, Assembly Judiciary Committee, California Legislature, Sacramento, 1966-67.

Private law practice, Bagley, Bianchi & Sheeks, San Rafael, 1968-72. Became partner in 1970. Administrative Assistant to Assemblyman William Bagley, 1968-70.

Private law practice, Jarvis & Irvine, Palo Alto, 1972-75.

California Law Revision Commission, 1975-present.

EDUCATION: Brown University, Providence, R. I., A.B., 1958 (American Literature).

Stanford Law School, LLB, 1966. Revising Editor, Moot Court Board, 1965-66.

ADMISSION TO PRACTICE: Admitted to practice before California and federal courts, 1966.

COMMUNITY ACTIVITIES: Vice-chair, Section on Lawmaking Procedures of Commonwealth Club, 1970; Board of Directors, Marin County Legal Aid Society, 1969-71.

MILITARY SERVICE: Active duty, U. S. Navy, 1958-63. Jet fighter pilot, 1959-61; 64 carrier landings.

MUSIC CAREER: Soprano saxophonist with Natural Gas Jazz Band. Played at Edinburgh Festival, Scotland (1983); North Sea Jazz Festival, Holland (1983); Evergreen Jazz Festival, Kobe, Japan (1985); Ottawa Jazz Festival, Ottawa, Canada (1987). Guest soloist with Beryl Bryden's Star Parade, Eindhoven, Holland (1983). Guest soloist with Budapest Ragtime Band, Budapest, Hungary (1987). Played in Ireland, England, Germany, Poland, Czechoslovakia, and all over the U.S. Played 12 consecutive years at the Sacramento Jubilee. Featured guest for Sacramento Hot Jazz Society (1979). Ranked number 16 among soprano saxophonists worldwide in 1985 Jazzology readers' poll, tied with Woody Herman. Taught six summers at Stanford Jazz Workshop; played with Stanford Jazz Workshop Faculty All-Stars in 1986; named Outstanding Jazz Educator in 1984. Many radio and TV appearances, including Al "Jazzbeaux" Collins' show on KSFO radio. Recorded extensively. Has written many arrangements played by bands all over the world.

PERSONAL: Born in Summit, New Jersey, June 3, 1936. Lives in Palo Alto with wife, Judy, a pediatrician.

APPENDIX 3

STUDIES ON CURRENT AGENDA

The Commission has on its calendar of topics the topics listed below. Each of these topics has been authorized for Commission study by the Legislature.

Creditors' remedies. Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised. (Authorized by 1983 Cal. Stat. res. ch. 40. See also 1974 Cal. Stat. res. ch. 45; 1972 Cal. Stat. res. ch. 27; 1957 Cal. Stat. res. ch. 202; 1 Cal. L. Revision Comm'n Reports, "1957 Report" at 15 (1957).)

Probate Code. Whether the California Probate Code should be revised, including but not limited to, whether California should adopt, in whole or in part, the Uniform Probate Code. (Authorized by 1980 Cal. Stat. res. ch. 37.)

Real and personal property. Whether the law relating to real and personal property (including, but not limited to, a Marketable Title Act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon termination or abandonment of a lease, powers of appointment, and related matters) should be revised. (Authorized by 1983 Cal. Stat. res. ch. 40, consolidating various previously authorized aspects of real and personal property law into one comprehensive topic.)

Family law. Whether the law relating to family law (including, but not limited to, community property) should be revised. (Authorized by 1983 Cal. Stat. res. ch. 40. See also 1978 Cal. Stat. res. ch. 65; 16 Cal. L. Revision Comm'n Reports 2019 (1982); 14 Cal. L. Revision Comm'n Reports 22 (1978).)

Prejudgment interest. Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised. (Authorized by 1971 Cal. Stat. res. ch. 75.)

Class actions. Whether the law relating to class actions should be revised. (Authorized by 1975 Cal. Stat. res. ch. 15. See also 12 Cal. L. Revision Comm'n Reports 524 (1974).)

Offers of compromise. Whether the law relating to offers of compromise should be revised. (Authorized by 1975 Cal. Stat. res. ch. 15. See also 12 Cal. L. Revision Comm'n Reports 525 (1974).)

Discovery in civil cases. Whether the law relating to discovery in civil cases should be revised. (Authorized by 1975 Cal. Stat. res. ch. 15. See also 12 Cal. L. Revision Comm'n Reports 526 (1974).)

Procedure for removal of invalid liens. Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney's fees to the prevailing party. (Authorized by 1980 Cal. Stat. res. ch. 37.)

Special assessment liens for public improvements. Whether acts governing special assessments for public improvements should be simplified and unified. (Authorized by 1980 Cal. Stat. res. ch. 37.)

Injunctions. Whether the law on injunctions and related matters should be revised. (Authorized by 1984 Cal. Stat. res. ch. 42.)

Involuntary dismissal for lack of prosecution. Whether the law relating to involuntary dismissal for lack of prosecution should be revised. (Authorized by 1978 Cal. Stat. res. ch. 85. See also 14 Cal. L. Revision Comm'n Reports 23 (1978).)

Statutes of limitation for felonies. Whether the law relating to statutes of limitations applicable to felonies should be revised. (Authorized by 1981 Cal. Stat. ch. 909, § 3.)

Rights and disabilities of minors and incompetent persons. Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised. (Authorized by 1979 Cal. Stat. res. ch. 19. See also 14 Cal. L. Revision Comm'n Reports 217 (1978).)

Child custody, adoption, guardianship, and related matters. Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised. (Authorized by 1972 Cal. Stat. res. ch. 27. See also 10 Cal. L. Revision Comm'n Reports 1122 (1971); 1956 Cal. Stat. res. ch. 42; 1 Cal. L. Revision Comm'n Reports, "1956 Report" at 29 (1957).)

Evidence. Whether the Evidence Code should be revised. (Authorized by 1965 Cal. Stat. res. ch. 130.)

Arbitration. Whether the law relating to arbitration should be revised. (Authorized by 1968 Cal. Stat. res. ch. 110. See also 8 Cal. L. Revision Comm'n Reports 1325 (1967).)

Modification of contracts. Whether the law relating to modification of contracts should be revised. (Authorized by 1974 Cal. Stat. res. ch. 45. See also 1957 Cal. Stat. res. ch. 202; 1 Cal. L. Revision Comm'n Reports, "1957 Report" at 21 (1957).)

Governmental liability. Whether the law relating to sovereign or governmental immunity in California should be revised. (Authorized by 1977 Cal. Stat. res. ch. 17. See also 1957 Cal. Stat. res. ch. 202.)

Inverse condemnation. Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised. (Authorized by 1971 Cal. Stat. res. ch. 74. See also 1970 Cal. Stat. res. ch. 46; 1965 Cal. Stat. res. ch. 130.)

Liquidated damages. Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised. (Authorized by 1973 Cal. Stat. res. ch. 39. See also 1969 Cal. Stat. res. ch. 224.)

Parol evidence rule. Whether the parol evidence rule should be revised. (Authorized by 1971 Cal. Stat. res. ch. 75. See also 10 Cal. L. Revision Comm'n Reports 1031 (1971).)

Pleadings in civil actions. Whether the law relating to pleadings in civil actions and proceedings should be revised. (Authorized by 1980 Cal. Stat. res. ch. 37.)

Administrative Law. Whether there should be changes to administrative law. (Authorized by 1987 Cal. Stat. res. ch. 47.)

BREAKDOWN OF AUTHORIZED STUDIESA - ARBITRATIONB - BUSINESS LAW

- 100 - Modification of Contracts
- 200 - Liquidated Damages (former Study 72)
- 300 - Parol Evidence Rule (former Study 79)

D - DEBTOR-CREDITOR RELATIONS

- 100 - Repossession of Property (includes Claim and Delivery)
- 200 - Attachment (former Study 39.160)
- 300 - Enforcement of Judgments (former Study 39.120; 39.200-39.260)
- 301 - Creditors' Remedies (Follow Up Legislation)
- 302 - Creditors' Remedies (Follow Up Legislation 1984)
- 303 - Creditors' Remedies (Follow Up Legislation 1985)
- 310 - Homesteads
- 312 - Liability of Marital Property For Debts
- 313 - Married Women as Sole Traders
- 316 - Effect of Death of Joint Tenant
- 320 - Enforcement of Claims and Judgments Against Public Entities
- 325 - Bonds and Undertakings
- 326 - Bond and Undertakings (Follow Up Legislation 1984)
- 330 - Revision of Attachment Law
- 400 - Assignment for Benefit of Creditors (former Study 39.270)
- 500 - Confession of Judgment Procedures
- 501 - Confession of Judgment in Support and Paternity Cases
- 550 - Tax Liens
- 600 - Default Judgment Procedures
- 700 - Procedures Under Private Power of Sale
- 800 - Possessory and Nonpossessory Liens
- 801 - Interfamily Transfers as Fraudulent Conveyances
- 802 - Uniform Fraudulent Transfers Act
- 900 - Wage Garnishment Procedure

E - EMINENT DOMAIN

- 100 - Ad Valorem Taxes (former Study 36.56)
- 200 - Assessment Liens
- 300 - Wisconsin Eminent Domain Revision
- 400 - Eminent Domain Law

F - FAMILY AND JUVENILE LAW

- 101 - Uniform Veterans' Guardianship Act
- 200 - Appeal of Custody Order
- 300 - Custody of Children (former Study 30.100)
- 400 - Adoption (former Study 30.200)
- 401 - Emancipated Minors
- 500 - Freedom From Parental Custody and Control (former Study 30.400)
- 521 - Community Property in Joint Tenancy Form
- 600 - Community Property
- 601 - Division of Joint Tenancy and Tenancy in Common Property at
Dissolution of Marriage

- 602 - Division Upon Dissolution of Marriage of Property Held in Joint Tenancy Form (Retroactive Application of Statute)
- 603 - Retroactive Application of Property Division Legislation
- 610 - Increased Earning Capacity
- 611 - Goodwill
- 620 - Federal Military and Other Federal Pensions
- 630 - Prenuptial Agreements
- 631 - Marital Agreements
- 632 - Reimbursement for Educational Expenses
- 633 - Division of Pensions
- 634 - Support
- 640 - Title and Gift Presumptions and Transmutations
- 641 - Limitations on Disposition of Community Property
- 642 - Combined Separate and Community Property
- 650 - Liability of Step Parent for Child Support
- 660 - Awarding Family Home to Spouse Having Custody of Minor Children
- 661 - Continuation of Support Obligation After Death of Support Obligor
- 662 - Special Appearance in Family Law Proceedings
- 670 - Attorney's Fees in Family Law Proceedings
- 671 - Quasi-Community Property (Tax Implications)

G - GOVERNMENTAL LIABILITY

- 100 - Notice of Rejection of Late Claims

H - REAL ESTATE AND LAND USE

- 100 - Lease Law
- 110 - Landlord-Tenant
- 111 - Commercial Lease Law
- 200 - Partition Procedure
- 250 - Revision of Real Property Law
- 300 - Possibilities of Reverter and Powers of Termination (former Study 85)
- 400 - Marketable Title Act (former Study 86)
- 401 - Ancient Mortgages and Deeds of Trust
- 402 - Dormant Mineral Rights
- 403 - Unexercised Options
- 404 - Land Sale Contracts/Rights of Entry
- 405 - Possibilities of Reverter
- 406 - Abandoned Easements
- 407 - Obsolete Restrictions
- 408 - Uniform Dormant Mineral Interests Act
- 500 - Quiet Title Actions
- 510 - Joint Tenancy; Rights Among Cotenants; Joint Tenancy & Community Property
- 600 - Civil Code Section 1464
- 601 - Recording Severance of Joint Tenancy
- 700 - Abandonment and Vacation of Public Streets and Highways
- 800 - Improvement Acts
- 900 - Lis Pendens
- 1000 - Procedures Under Private Power of Sale Under Trust Deed or Mortgage

I - INVERSE CONDEMNATION

J - CIVIL PROCEDURE

- 101 - Security for Costs
- 200 - Prejudgment Interest (former Study 80)
- 300 - Class Actions (former Study 82)
- 400 - Offers of Compromise (former Study 83)
- 500 - Discovery (former Study 84)
- 600 - Dismissal for Lack of Prosecution
- 650 - Court Congestion
- 700 - Mediation

K - EVIDENCE

- 100 - Evidence of Market Value (former Study 63.70)
- 200 - Comparison With Federal Rules (former Study 63.100)
- 300 - Psychotherapist-Patient Privilege
- 400 - Mediation Privilege

L - ESTATE PLANNING, PROBATE, AND TRUSTS

- 100 - Escheat; Unclaimed Property (former Study 26)
- 200 - Powers of Appointment
- 300 - Probate Homesteads
- 400 - Rights and Disabilities of Minors/Incompetent Persons
- 500 - Durable Powers of Attorney
- 502 - Dying and Termination of Life Sustaining Procedures
- 600 - Probate Code (Generally)
- 600 - Estates and Trusts Code (Form of Comments)
- 601 - Nonprobate Transfers/Multiple-Party Accounts
- 602 - Intestate Succession
- 603 - Wills
- 604 - Family Protection (includes Pretermission)
- 605 - Rules of Construction
- 605 - Distribution Under a Will or Trust
- 606 - Contracts Concerning Succession and Provisions Relating to Effect
of Death
- 607 - General Provisions
- 608 - Custody and Deposit of Wills
- 609 - International Wills
- 610 - Absentees
- 611 - Missing Persons
- 612 - Simultaneous Death
- 613 - Testamentary Additions to Trust; Life Insurance and Other Trusts
- 614 - Bequests to Minors
- 615 - Escheat
- 616 - Definitions
- 617 - Quasi-Community Property
- 618 - Uniform Transfers to Minors Act
- 619 - Statutory Will
- 620 - Uniform Statutory Will Act
- 621 - "Confidential Relationship Doctrine"
- 625 - Wills and Intestate Succession
- 626 - Wills and Intestate Succession (Follow Up Legislation 1984)
- 627 - Notice in Limited Conservatorship Proceeding
- 628 - Order Dispensing with Accounts of Guardian or Conservator
- 629 - Item v. Aggregate Theory of Community Property
- 630 - Wills and Intestate Succession (Follow Up Legislation 1985)

- 635 - Anti-lapse statute
- 636 - No Contest Clause
- 640 - Trusts
- 641 - Creditor's Right to Reach Payments From Trust
- 642 - Application of Trust Law to Excluded Trusts
- 643 - Damages for Breach of Trust
- 650 - Simplifying Requirements for Execution of Will
- 651 - Recording Affidavit of Death
- 652 - Nonprobate Transfers
- 653 - Notice of Will
- 654 - Ancestral Property Doctrine
- 655 - Probate Referees
- 656 - Bond for Special Administrator
- 657 - Procedure for Objecting to Appraisement of Estate Property
- 658 - Transfer of Real Property of Small Value
- 659 - Parent-Child Relationship
- 660 - Representation (Probate Code § 240)
- 700 - Guardianship-Conservatorship
- 701 - Support to Conservatee From Community Property
- 702 - Procedure for Appointment of Successor Conservator
- 703 - Consent to Health Care
- 704 - Statutory Forms for Durable Power of Attorney
- 705 - Revision of Durable Power of Attorney for Health Care Statute
- 706 - Temporary Guardians and Conservators
- 800 - Probate Administration/Probate Code (Abatement; Distribution of Interest and Income)
- 810 - Administration Without Court Supervision
- 811 - Form for Advice of Proposed Action
- 825 - Succession Without Administration
- 826 - Distribution of Decedent's Estate Without Administration
- 827 - Waiver of Probate Accounting
- 828 - Transfer Without Probate of Certain Property Registered by State
- 829 - Deposition of Retirement Plan Benefits Without Administration
- 830 - Probate Code (Proration of Estate Taxes)
- 900 - Notary Publics
- 930 - Probate Code - Guardian Ad Litem
- 940 - Substitution and Delegation of Powers of Fiduciaries
- 1000 - Probate Code (Jurisdiction; Probate of Wills; Contest of Wills)
- 1010 - Probate Code (Opening Estate Administration)
- 1020 - Probate Code (Powers and Duties of Executors and Administrators) (Standard of Care of Personal Representative) (Probate Code Section 854) (superseded by 1037 - Estate Management)
- 1024 - Probate Code (Interest and Income Accruing During Administration)
- 1025 - Probate Code (Presentation of Claims)
- 1026 - Probate Code (Payment of Claims and Demands)
- 1027 - Probate Code (Accountings)
- 1028 - Probate Code (Independent Administration)
- 1029 - Probate Code (Distribution and Discharge)
- 1030 - Probate Code (Collection or Transfer of Small Estate Without Administration) (Distribution Without Administration)
- 1031 - Probate Code (Passage of Property to Surviving Spouse Without Administration)
- 1032 - Probate Code (Small Estate Set-Aside)

- 1033 - Probate Code (Establishing Identity of Heirs)
- 1034 - Probate Code (Public Administrators)
- 1035 - Probate Code (Administration of Estates of Missing Persons Presumed Dead)
- 1036 - Probate Code (Attorneys' Fees)
- 1037 - Probate Code (Estate Management)
- 1038 - Probate Code (Abatement)
- 1039 - Probate Code (Distribution of Income)
- 1040 - Probate Code (Public Administrators)
- 1045 - Probate Code (Definitions)
- 1046 - Probate Code (Nondomiciliary Decedents)
- 1047 - Probate Code (Appeals)
- 1048 - Probate Code (Rules of Procedure)
- 1049 - Probate Code (Orders)
- 1050 - Probate Code (Guardianship-Conservatorship)
- 1055 - Probate Code (Fees of Personal Representative)
- 1058 - Probate Code (Filing Fees)
- 1060 - Right of Surviving Spouse to Dispose of Community and Quasi-community Property
- 1100 - New Probate Code Suggestions
- 2000 - Probate Code (Operative Date)
- 2005 - Probate Code (Conforming Revisions)
- 2006 - Probate Code (Miscellaneous Provisions of Division 3)
- 2007 - Probate Code (Conforming Changes for Division 3)
- 2008 - Probate Code (Cleanup Bill for AB 708)
- 3000 - Statutory 630 Affidavit Form
- 3001 - Uniform Transfers Act revisions
- 3002 - New Powers of Appointment and Powers of Attorney Division
- 3003 - Claims Procedure for Trusts
- 3004 - Rights of Estranged Spouse
- 3005 - Antilapse statute and construction of instruments
- 3006 - Trustee's use of Section 650 Procedure
- 3007 - Ancestral Property Doctrine
- 3008 - Directive to Physicians (Uniform Rights of Terminally Ill Act)
- 3009 - Transfer on death deed and other nonprobate transfer techniques
- 3010 - Change in Corporate Trustees
- 3011 - Tort and Contract Liability of Personal Representative

M - CRIMINAL LAW

- 100 - Statutes of Limitation on Felonies

N - ADMINISTRATIVE LAW

NEW PROBATE STUDIES TO BE COMMENCED IN 1988

- Prepare Statutory 630 Affidavit Form (for inclusion in new code) (John)
- Uniform Transfers to Minors Act
 - Make possible to make outright gift to remain in custody until age 25
 - Co-custodians
- Draft New Division of Estate and Trust Code (Powers of Attorney; Powers of Appointment)
- Claims Procedure for Trusts

Creditor's Right To Reach Nonprobate Assets
Rights of Estranged Spouse
Anti-lapse and Construction of Instruments
Trustee's Use of Section 650 Procedure
Ancestral Property Doctrine
Directive to Physicians (Uniform Act)
Community Property With Right of Survivorship
Transfer on Death Designation for Real Property

APPENDIX 5

COMMISSION CONSULTANTS

Prof. Paul E. Bayse
Hastings College of the Law
200 McAllister Street
San Francisco, CA 94102

Real and Personal Property Law
Probate Law

Prof. Gail B. Bird
Hastings College of the Law
200 McAllister Street
San Francisco, CA 94102

Real and Personal Property Law
Probate Law

Prof. James L. Blawie
School of Law
Santa Clara University
Santa Clara, CA 95053

Real and Personal Property Law
Probate Law

Prof. Jesse Dukeminier
School of Law
University of California
Los Angeles, CA 90024

Real and Personal Property Law
Probate Law

Garrett H. Elmore
777 Marshall Street
Redwood City, CA 94063-1818

Real and Personal Property Law

Prof. Jack Friedenthal
Stanford Law School
Stanford, CA 94305

Evidence

Prof. Susan F. French
School of Law
University of California
Davis, CA 95616

Real and Personal Property Law
Probate Law

Prof. Edward C. Halbach, Jr.
School of Law, Boalt Hall
University of California
Berkeley, CA 94720

Probate Law

Prof. Russell D. Niles
Hastings College of the Law
200 McAllister Street
San Francisco, CA 94102

Real and Personal Property Law
Probate Law

Prof. William A. Reppy, Jr.
School of Law
Duke University
Durham, NC 27706

Liability and Exemptions from Execu-
tion of Community Property and
Related Matters and Probate Law

Prof. Stephan A. Riesenfeld
School of Law, Boalt Hall
University of California
Berkeley, CA 94720

Creditor's Remedies

Prof. Gerald F. Uelman
Loyola Law School
1441 West Olympic Blvd.
Los Angeles, CA 90015

Statutes of Limitation for Felonies

Prof. Bruce Wolk
School of Law
University of California
Davis, CA 95616

Community Property (taxes)

Prof. William G. Coskran
Loyola Law School
1441 West Olympic Blvd.
Los Angeles, CA 90015

Landlord-tenant Law

APPENDIX 6

BAGLEY-KEENE OPEN MEETING ACT

(Gov't Code §§ 11120-11132, as amended effective Jan. 1, 1988)

§ 11120. Legislative finding and declaration; Open proceedings; Citation of article

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

11121. As used in this article "state body" means every state board, or commission, or similar multimember body of the state which is required by law to conduct official meetings and every commission created by executive order, but does not include:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the^VRalph M. Brown Act, (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Sections 9027 to 9032, inclusive).

(d) State agencies when they are conducting proceedings pursuant to Section 3595⁷.

(e) State agencies provided for in Section 1702 of the Health and Safety Code, except as provided in Section 1720 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

§ 11121.2. Additional definition of "state body"

As used in this article, "state body" also means any board, commission, committee, or similar multimember body which exercises any authority of a state body delegated to it by that state body.

§ 11121.7. Additional definition of "state body"

As used in this article, "state body" also means any board, commission, committee, or similar multimember body on which a member of a body which is a state body pursuant to Section 11121, 11121.2, or 11121.5 serves in his or her official capacity as a representative of such state body and which is supported, in whole or in part, by funds provided by the state body, whether such body is organized and operated by the state body or by a private corporation.

§ 11121.8. Additional definition of "state body"

As used in this article, "state body" also means any advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

§ 11121.9. Providing copy of article to members of state bodies

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

§ 11122. "Action taken"

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

§ 11123. Required open and public meetings

All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

§ 11124. Prohibited conditions to attendance

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

§ 11124.1. Recording proceedings

Any person attending an open and public meeting of the state body shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the state body that such recording constitutes, or would constitute, a disruption of the proceedings.

§ 11125. Notice of meeting

(a) The state body shall provide notice of its meeting to any person who requests such notice in writing. Notice shall be given at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The notice requirement shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The notice of a meeting of a body which is a state body as defined in Section 11121, 11121.2, 11121.5, or 11121.7, shall include a specific agenda for the meeting, which shall include the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the provision of this notice.

(c) The notice of a meeting of an advisory body, which is a state body as defined in Section 11121.8, shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice.

(d) Notice of a meeting of a state body which complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

§ 11125.1. Agenda and other "writing" as public record; Inspection

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by a member, officer, employee, or agent of such body for discussion or consideration at a public meeting of such body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting.

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6257. The writings described in subdivisions (b), (c), and (d) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to exempt from public inspection any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

§ 11125.2. Public report of action taken regarding public employee

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

§ 11125.5. Emergency meetings; Notification of media

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125.

For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

- (a) Work stoppage or other activity which severely impairs public health, safety, or both.
- (b) Crippling disaster which severely impairs public health, safety, or both.
- (c) Difficulties with examinations for licensure which require immediate attention.
- (d) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, which require immediate attention.
- (e) Consideration of applications for licensure where a decision must be made in less than 10 days.
- (f) Consideration by a licensing agency of proposed legislation which requires immediate attention due to legislative action which may be taken prior to the next regularly scheduled meeting of the agency, or due to time limitations imposed by law.
- (g) Action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code if a 10-day delay would detrimentally affect the ability to provide or operate low- or moderate-income housing or seriously affect the fiscal integrity of the program pursuant to which the loan or grant was made or the assisted housing development.

However, newspapers of general circulation and radio or television stations which have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. In the event that telephone services are not functioning the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify such newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at such meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

11126. (a) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(l) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation. For the purpose of real property investment decisions which may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provision of subdivision (i) relating to the identification of real properties prior to the closed session.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(r) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(s) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(t) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(w) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

(2) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(x) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(y) This article shall not prevent the Teachers' Retirement Board from holding closed sessions when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

§ 11126.1. Minute book of closed session

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

11126.3. (a) Prior to holding any closed session, the state body shall state the general reason or reasons for the closed session, and cite the specific statutory authority, including the particular section, subdivision, and paragraph under which the session is being held. If the session is closed pursuant to paragraph (1) of subdivision (q) of section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its statement.

(c) The statement shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the closed session agenda has been published in compliance with this section, any additional pending litigation under subdivision (q) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

§ 11126.5. Clearing room where meeting wilfully interrupted

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

§ 11126.7. Fees

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

§ 11127. State bodies subject to article

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

§ 11128. When closed sessions held

Each closed session of a state body shall be held only during a regular or special meeting of the body.

§ 11129. Continuance or recontinuance of hearing

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body which is noticed pursuant to Section 11125. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 11130. Commencement of action

Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to actions or threatened future action by members of the state body.

11130.3. (a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 30 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

§ 11130.5. Costs and attorney fees

11130.5. A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 11130.7. Offenses

Each member of a state body who attends a meeting of such body in violation of any provision of this article, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

§ 11131. Prohibition against use of certain facilities

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

11132. Except as expressly authorized by this article, no closed session may be held by any state body.

TRAVEL EXPENSE INFORMATION

California Law Revision Commission Air Travel Procedures

Effective December 2, 1987

AIRLINE SERVICE SUMMARYContract Airlines

As of December 2, 1987, American Airlines, American Eagle, Pacific Southwest Airlines, United Airlines, and United Express provide discount air fares for official business trips between various city pairs. This list of airlines and cities served will change when the present contracts expire and new contracts are bid. Revised information will be provided when it is received.

Below is a summary of the major city pairs, airlines, and fares which will apply to most Commission meetings:

<u>Travel Between:</u>	<u>Airline</u>	<u>One-Way Fare</u>
Los Angeles - Sacramento	American Airlines	\$49.00
Los Angeles - San Francisco	American Airlines	\$49.00
Los Angeles - San Jose	American Airlines	\$48.00
Burbank - San Jose	American Airlines	\$59.00
Orange County - Sacramento	American Airlines	\$63.00
Orange County - San Francisco	American Airlines	\$69.00
Orange County - San Jose	American Airlines	\$75.00
Sacramento - San Francisco	American Eagle	\$57.00
Sacramento - San Diego	PSA	\$78.00
Burbank - Sacramento	PSA	\$62.00
Burbank - San Francisco	PSA	\$64.00
San Francisco - San Diego	United Airlines or United Express	\$56.00
Sacramento - San Jose	United Express	\$69.00

Non-Contract Airlines

In the event that space is not available on the contract airline, or the contract airline flight schedule would require overnight lodging, does not meet mission requirements or would cause a substantive loss of time, a non-contract airline may be used. In this case, the fare may be charged either to the UATP card or to a personal credit card. If charged to a personal credit card, the amount must be shown on the travel expense information sheet in order to be reimbursed. The reason for not using a contract carrier must also be given, as carrier use will be audited.

METHODS OF PAYMENT

State Credit Cards

In the past Commissioners were provided with PSA credit cards which billed directly to the Commission for use in purchasing airline tickets. These cards are still valid for travel on routes where PSA is the contract airline. They may also be used if the contract airline is not usable as mentioned above.

We are in the process of obtaining Universal Air Travel Plan cards to replace the PSA credit cards. These cards will also bill directly to the Commission, and can be used with any of the contract airlines to obtain the state contract fares. When making reservations, is is necessary to ask for the Y-GAL or state contract fare. Using a UATP card with the agency name on it does not guarantee that the tickets will be provided at the contract rate. These cards may also be used to purchase tickets on non-contract airlines and routes if the contract carrier is not usable.

Personal Credit Cards

American Airlines is the only contract airline which will accept a personal credit card, along with a letter from the state agency authorizing the travel. They will retain the letter as proof of eligibility for the special rate. Be sure, when making reservations, to ask for the Y-CAL or state contract fare. These letters are available from the Administrative Assistant. Please allow adequate time for the letter to be mailed out to if this procedure is to be used.

Additional Information

Management Memo 87-07 details the travel requirements and has a full list of the contract airlines and city pairs (see Attachment A to the Management Memo). A copy of this memo is attached.