

Memorandum 93-01

Subject: Administrative Matters - Quorum Rules For Commission Meetings

The Commission has established the following quorum rules:

Five members of the Commission constitute a quorum and must be present before the Commission may act. 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 minimum of four affirmative votes. The Chairperson is authorized to determine that fewer than five members constitutes a quorum for the purposes of a 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 may be taken at the meeting.

California Law Revision Commission, Handbook of Practices and Procedures 7 (May 1991)

The Legislative Members of the Commission are not counted for quorum purposes since by statute they participate in the activities of the Commission only to the extent the participation is not incompatible with their positions as Members of the Legislature. Gov't Code § 8281.

Two quorum issues have persisted over the years:

(1) If on a particular meeting day the Commission is operating with a bare quorum but a Commissioner has to leave early that day, does the departure of the Commissioner deprive the Commission of a quorum for the remainder of that day?

(2) If at a particular meeting the Commission is operating with a bare quorum on the first day but a Commissioner cannot attend the second day of the meeting, does the nonattendance of the Commissioner deprive the Commission of a quorum for the second day?

The Commission has consistently taken the position that (1) once a quorum, always a quorum, and (2) as long as the meeting is recessed and reconvened, rather than adjourned, from day to day, the quorum remains intact. This is a less formal approach than, though not necessarily inconsistent with, standard parliamentary procedure:

When a body has convened with a quorum present, it can continue to transact business as long as a quorum is present and it is presumed that the quorum continues to be present until the question of no quorum is raised or the lack of a quorum is disclosed by a vote.

Mason, Manual of Legislative Procedure § 504(1) (1979)

The less formal approach is typical of bodies that cannot compel attendance of their members. It ensures that a dissident member cannot prevent action simply by absenting itself with the intent to deprive the body of a quorum. In the case of the Commission the less formal approach has been a practical necessity because of recurrent attendance problems over the years.

It would be useful to codify the Commission's practice on this matter in the Handbook of Practices and Procedures. The following addition would be appropriate.

Five members of the Commission constitute a quorum and must be present before the Commission may act. If a quorum is established at any time during a meeting of the Commission, the Commission may thereafter act for the duration of the meeting notwithstanding the absence of any member who is part of the quorum. Any action may be taken by a majority of those present ~~if a quorum is present after a quorum is established~~, but any final recommendation to the Legislature must be approved by a minimum of four affirmative votes. The Chairperson is authorized to determine that fewer than five members constitutes a quorum ~~for the purposes of~~ if a quorum is not otherwise established at a 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 may be taken at the meeting.

Respectfully submitted,

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