

Admin.

June 11, 1998

**Memorandum 98-52****Strategic Plan for 1998**

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Attached is the Commission's "strategic plan" for 1998. This is a document required by statute; it conforms to specifications established by the Department of Finance. It is submitted for your information — no Commission action is required.

Respectfully submitted,

Nathaniel Sterling  
Executive Secretary

Admin.

STATE OF CALIFORNIA

# **CALIFORNIA LAW REVISION COMMISSION**

1998 Strategic Plan

June 1998

California Law Revision Commission  
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## EXECUTIVE SUMMARY

In this strategic plan the California Law Revision Commission states its overall goal to maintain the same high level of performance that has characterized it in the past.

To achieve this goal the plan establishes sequencing and completion dates for major legislative assignments, and determines that current levels of funding are generally adequate for this purpose. However, the plan indicates the need for a budget adjustment to convert part time legal positions to full time positions and to allow for employee advancement.

This plan may be revised from time to time to reflect changes in the Commission's calendar of topics and changes in legislative priorities.

For questions about, and copies of, this plan, please contact Nathaniel Sterling, Executive Secretary, California Law Revision Commission 650-494-1335.

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## MISSION STATEMENT

The California Law Revision Commission was created in 1953 as the permanent successor to the Code Commission and given responsibility for a continuing substantive review of California statutory and decisional law. The Commission studies the law to discover defects and anachronisms and recommends legislation to make needed reforms.

## DESCRIPTION

The duties and responsibilities of the California Law Revision Commission include:

(1) Examining 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.

(2) Receiving and considering proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, bar associations, and other learned bodies.

(3) Receiving and considering suggestions from judges, public officials, lawyers, and the public as to defects and anachronisms in the law.

(4) Recommending changes in the law necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state into harmony with modern conditions.

(5) Recommending the express repeal of all statutes repealed by implication, or held unconstitutional by the United States Supreme Court or the California Supreme Court.

The Commission submits its reports and recommendations for revision of the laws to the Governor and the Legislature.

## PRINCIPLES

This agency's core principles include:

(1) Openness. The agency will conduct its business openly and encourage public participation.

(2) Fairness. The agency will make recommendations for reform of the law that are fair to the parties.

(3) Neutrality. The agency will not represent the interests of any group.

(4) Integrity. The agency will be forthright in its recommendations and in its dealings with the legislative process.

(5) Quality. The agency will provide the highest quality, most reliable legal work.

(6) Efficiency. The agency will maximize the return on public resources expended for its mission.

## INTERNAL/EXTERNAL ASSESSMENT SUMMARY

### **Planning Assumptions**

As California grows and evolves, the state's laws will continue to become more voluminous and complex, and will continually become outdated and obsolete. The need for law reform is permanent.

During its 45-year history, the Law Revision Commission has established a reputation for high-quality, reliable work, and high productivity; its publications have become a fundamental legislative research tool. The Governor, Legislature, and legal community expect these standards to be maintained.

### **Internal and External Issues**

The major external issue facing the Law Revision Commission is the advent of legislative term limits. The Commission depends for successful completion of its mission on the Governor's and Legislature's favorable reception of the Commission's recommendations. Their acceptance is based in part on the Commission's reputation for neutrality, integrity, and careful work. A high rate of legislative turnover may make this bond of trust more difficult to establish. However, it may also force greater legislative reliance on aids such as the Law Revision Commission. The full impact of term limits is not yet clear.

Another important external issue is the involvement in Commission projects of persons and organizations affected by the projects. The success of Commission recommendations is substantially affected by the extent to which concerns of affected parties are satisfactorily addressed. It is not always easy to obtain the involvement of affected parties, but it is necessary.

Active participation by Commission members is an internal issue important to the quality of the Commission's work. Because the Commission members serve without compensation, other priorities often intervene. This is a perennial problem, more acute at some times than at others.

A final internal issue relates to personnel structure. During the early 1990's, the state budget crisis resulted in a reduction in staffing, including layoffs and downgrading several positions to part time. During the mid 1990's the Legislature brought the Commission's budget back nearly to former levels. As a result of this process the Commission now has an inefficient structure of part-time workers, as well as some entry level workers. To maintain a high level of employee quality, as well as maximum efficiency, the Commission needs to be able to recruit attorneys for full time positions and to ensure them of advancement opportunities.

## VISION

This agency's image of the desired future is to continue to be a respected, trusted, and relied-upon source of recommendations to the Governor and Legislature for law reform. It is to be an agency of active and dedicated members, supported by a high-quality staff, with the active engagement and participation of the public in its projects.

## GOALS

By any measure, the Law Revision Commission has been a highly successful agency. Its output is high, its product is respected, its recommendations are overwhelmingly enacted into law by the Governor and Legislature. The Commission's overall goal is to maintain the same high level of performance that has characterized it in the past.

The Law Revision Commission has only one program — law reform. Any other goals are subordinate to that end.

Administratively, the Law Revision Commission's goal is to phase out part-time attorney positions in favor of full-time positions, and to provide adequately for staff advancement.

## OBJECTIVES

For maximum efficiency in achieving the goal of continuing high quality law reform, the Commission must process a number of large and small projects simultaneously. The Commission must take preliminary steps to activate new projects in a timely manner as ongoing projects are completed. Simultaneous work in a number of fields should also help improve interaction with the Legislature and interested parties, as well as Commissioner involvement. To this end, the Commission's objectives for the next three fiscal years include, in addition to work on a number of minor projects, the activities on major studies set out below. (Note: These are programmatic objectives. For administrative objectives, please refer to the portion of this plan concerning resource assumptions.)

### **1998-99 Fiscal Year**

- Followup work on Trial Court Unification
- Complete work on Health Care Decisionmaking
- Complete work on Administrative Rulemaking
- Complete work on Uniform Principal and Income Act
- Complete work on Settlement Negotiation Confidentiality
- Partial report on Environmental Law Consolidation
- Begin work on Uniform Unincorporated Nonprofit Association Act
- Begin work on Issues in Judicial Administration

Begin work on Eminent Domain Issues  
Engage consultant on Discovery Improvements  
Engage consultant on General Assignments for Benefit of Creditors  
Engage consultant on Contract Formation and Electronic Communications

**1999-00 Fiscal Year**

1999 Report on Telecommunications Deregulation (CPUC consultation)  
Partial report on Environmental Law Consolidation  
Complete work on Uniform Unincorporated Nonprofit Association Act  
Partial report on Issues in Judicial Administration  
Partial report on Eminent Domain Issues  
Begin work on Evidence Code and Electronic Communications  
Begin work on Chapter 9 Bankruptcy Issues

**2000-01 Fiscal Year**

2000 Report on Telecommunications Deregulation (CPUC consultation)  
Partial report on Environmental Law Consolidation  
Complete work on Eminent Domain Issues  
Complete work on Evidence Code and Electronic Communications  
Complete work on Chapter 9 Bankruptcy Issues  
Partial report on Issues in Judicial Administration  
Begin work on Discovery Improvements  
Begin work on General Assignments for Benefit of Creditors  
Begin work on Contract Formation and Electronic Communications

**Important Note:** This schedule may be revised from time to time as the Legislature and Commission redetermine assignments and priorities.

## PERFORMANCE MEASURES

There are a number of quantitative benchmarks that might be used to gauge the Law Revision Commission's performance, including volume of materials considered by the Commission, number of recommendations completed, printed pages of reports produced, number of bills introduced, number of statute sections enacted, etc. However, none of these measures has proved to be adequate or especially useful. A significant improvement in the law that requires substantial Commission resources may be expressed in a brief report or statute, whereas a modest cleanup of codes requiring relatively few Commission resources may entail an extensive report on hundreds of statute sections. Enactment of legislation based on the Commission's work is also not a useful measure, since the legislation may be enacted some years after completion of the work, and the legislative process ordinarily involves amendments, partial enactments, etc. There is no direct

correlation between quantity and quality in the work of the Law Revision Commission.

More useful quantitative measures would look to the Commission's progress on key elements of each study in its law reform program. For this purpose, production of a consultant contract (or staff study) marks the initiation of work on a project, issuance of staff memoranda and intermediate drafts mark progress on the project, promulgation of a tentative recommendation marks completion of substantial work on the project, and publication of a report and submission to the Governor and Legislature mark conclusion of the project.

Taking work actually concluded on both major and minor studies, and expected conclusion of major studies only (subject to changing legislative priorities), performance data for this submittal are:

**1995-96 Actual**

Statute of Limitations in Trust Matters (11/95)  
Inheritance From or Through Child Born out of Wedlock (11/95)  
Tolling Statute of Limitations when Defendant Out of State (11/95)  
Repeal of Civil Code Section 1464 (11/95)  
Collecting Small Estate Without Administration (1/96)  
Homestead Exemption (4/96)

**1996-97 Actual**

Administrative Adjudication by Quasi-Public Entities (10/96)  
Marketable Title: Enforceability of Land Use Restrictions (10/96)  
Unfair Competition Litigation (11/96)  
Attachment by Undersecured Creditors (11/96)  
Ethical Standards for Administrative Law Judges (11/96)  
Best Evidence Rule (11/96)  
Mediation Confidentiality (1/97)  
Judicial Review of Agency Action (2/97)  
Public Utility Deregulation (6/97)

**1997-98 Estimated (Target)**

Business Judgment Rule (1/98)  
Uniform TOD Security Registration Act (6/98)  
Effect of Divorce on Nonprobate Transfer (6/98)

**1998-99 Expected (Target)**

Trial Court Unification (7/98)  
Environmental Law Consolidation (10/98)  
Health Care Decisionmaking (11/98)  
Settlement Negotiation Confidentiality (12/98)  
Administrative Rulemaking (6/99)

Uniform Unincorporated Nonprofit Association Act(6/99)  
Uniform Principal and Income Act (6/99)

**1999-00 Expected (Budget Year Target)**

Telecommunications Deregulation (10/99)  
Environmental Law Consolidation (10/99)  
Issues in Judicial Administration (11/99)  
Eminent Domain Issues (12/99)  
Uniform Unincorporated Nonprofit Association Act (5/00)

**2000-01 Expected (Target)**

Telecommunications Deregulation (10/00)  
Environmental Law Consolidation (10/00)  
Issues in Judicial Administration (11/00)  
Eminent Domain Issues (12/00)  
Evidence Code and Electronic Communications (5/01)  
Chapter 9 Bankruptcy (6/01)  
General Assignments for Benefit of Creditors (6/01)

**RESOURCE ASSUMPTIONS**

For fiscal year **1997-98**, the Law Revision Commission has developed its goals, objectives, and performance targets based on its fiscal year 1997-98 appropriation and other expected funds.

For fiscal year **1998-99**, the Law Revision Commission expects that the Legislature will enact the Commission's budget as proposed in the Governor's budget plan. The Commission plans to accomplish its goals, objectives, and performance targets within that budget.

For fiscal year **1999-00**, the Law Revision Commission will seek an adjustment for two purposes:

- (1) To reflect increased salaries resulting from employee advancement.
- (2) To begin upgrading the agency's part-time legal positions to full-time.

For fiscal year **2000-01**, the Law Revision Commission expects to accomplish its goals, objectives, and performance targets within the expected 1999-00 base budget, augmented to reflect increased salaries of employees resulting from employee advancement.

Otherwise, no new resources are being sought to support the Commission's strategic plan. This is subject to a few qualifications:

- (1) The Commission currently receives extensive library materials on an exchange basis with various legal publishers. Due to consolidation within the legal publishing industry, the Commission may lose access to critical library materials. If this occurs, it may be necessary to increase the Commission's operating expenses for library materials.

(2) If the Legislature continues to increase the Commission's priority workload, it may be necessary to increase the Commission's legal staff by an additional position and increase the Commission's operating expenses by an indeterminate amount.

(3) There has been state administrative and library interest in the possibility of electronically archiving all California Law Revision Commission materials, including basic documents in state archives. Depending on technology development, a one-time appropriation for this purpose may be appropriate.

## APPENDIX ITEMS

### **Methodology Statement**

This strategic plan was compiled by the California Law Revision Commission's executive staff, based on (1) the Legislature's annual concurrent resolution determining the Commission's calendar of topics, (2) the Commission's annual review and determination of priorities, and (3) discussions with budget personnel. The strategic plan also reflects the result of input from Commission members, staff members, and the public concerning the Commission's last preceding strategic plan. The strategic plan is reviewed by the Commission at a public meeting.