

Admin.

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Memorandum 2004-26

2004 Strategic Plan

The strategic plan is a relatively recent bureaucratic innovation in California government. The document is intended to help the state in its intermediate to long range planning, particularly for budgeting purposes. The strategic plan may be updated from time to time as circumstances change.

The Law Revision Commission's strategic plan was last revised in 2000. The draft attached to this memorandum is an updated version of the plan that reflects shifting topics and priorities on the Commission's calendar and the Commission's current reduced resources.

The plan provides an overview of the Commission's programmatic and administrative objectives. The major near-term action item identified is the need for a budget augmentation to restore Commission staffing to an optimum level. Adoption of this revised strategic plan will position us to make application for an appropriate budget augmentation when the state's finances improve.

We do not intend to discuss the revised plan at the meeting unless someone has an issue or question about it.

Respectfully submitted,

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Executive Secretary

Admin.

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Staff Draft

2004 Strategic Plan

June 2004

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 inadequate. A budget adjustment is necessary to enable the Commission to rebuild its staff to achieve the volume of output expected by the Governor and Legislature.

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 copies of this plan or questions about it, 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 and began operation in 1954 as the permanent successor to the Code Commission. It has 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 may not study any matter without prior authorization by the Legislature. 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 stakeholders.

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

Internal and External Issues

The major external issue facing the Law Revision Commission is the reduction in its resources resulting from the current state budget crisis. During the past three years, the Commission suffered substantial across-the-board budget reductions. The Commission is currently staffed at half its optimal level. The Commission's productivity is 50% below normal as a result of the staff reductions.

The major internal issue confronting the Commission relates to office location. The Commission's main office is located in Palo Alto as a result of historical connections with Stanford University Law School. These connections are no longer as close as they once were, and housing costs in the Bay Area have hindered the Commission's recruitment and retention of the best employees. The Commission has made a policy decision to relocate its main office to the Sacramento area, but to do it incrementally so as not to inconvenience current employees. The Commission has not yet determined a permanent location, and due to staffing reductions the relocation process has stalled.

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 high productivity and high quality output.

GOALS

By any measure, the Law Revision Commission has been a successful agency. Its output is high, its product is respected, its recommendations are overwhelmingly enacted into law. 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 relocate its main office in an area of affordable housing.

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 current and 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.)

2004-05 Fiscal Year

- Complete work on Financial Privacy
- Complete work on Waiver of Privilege
- Complete work on Unincorporated Association Governance
- Partial report on Conforming Evidence Code to Federal Rules
- Partial report on CID Law
- Continue work on Mechanics Lien Law
- Continue work on Civil Discovery
- Continue work on Legal Malpractice
- Begin work on Contractual Arbitration

2005-06 Fiscal Year

- Complete work on Legal Malpractice
- Partial report on Conforming Evidence Code to Federal Rules
- Partial report on CID Law
- Continue work on Civil Discovery
- Continue work on Mechanics Lien Law
- Continue work on Contractual Arbitration
- Begin work on Uniform Trust Code
- Begin work on General Assignments for Benefit of Creditors

2006-07 Fiscal Year

- Complete work on Civil Discovery
- Complete work on Mechanics Lien Law

Partial report on Conforming Evidence Code to Federal Rules
Partial report on CID Law
Continue work on Contractual Arbitration
Continue work on Uniform Trust Code
Continue work on General Assignments for Benefit of Creditors
Begin work on Public Records Act
Begin work on Subdivision Map Act

2007-08 Fiscal Year

Complete work on Conforming Evidence Code to Federal Rules
Complete work on CID Law
Complete work on Contractual Arbitration
Complete work on Uniform Trust Code
Complete work on General Assignments for Benefit of Creditors
Continue work on Public Records Act
Continue work on Subdivision Map Act
Resume work on Attorney Fee Statutes
Begin work on Special Assessment Districts
Begin work on Judicial Foreclosure

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, such as volume of materials considered by the Commission, number of recommendations completed, printed pages of reports produced, number of bills introduced, and number of statute sections enacted. However, none of these measures is 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, or other modifications. There is no direct correlation between quantity and importance 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 marks progress on the project,

promulgation of a tentative recommendation marks completion of substantial work on the project, and publication of a report and its submittal 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:

2003-04 Actual

- Organization of CID Law
- CID Rulemaking and Decisionmaking
- Decennial Review of Exemptions
- Probate Code Technical Corrections
- Obsolete Statutes Resulting from Trial Court Restructuring
- Obsolete Reporting Requirements
- Authority of Court Commissioner
- Alternative Dispute Resolution in CIDs
- Unincorporated Associations
- Reorganization of Discovery Statute

2004-05 Expected (Target)

- Civil Discovery (Part 1)
- Emergency Rulemaking Under APA
- Withdrawal from Joint Account
- Financial Privacy
- Waiver of Privilege
- Unincorporated Association Governance
- Conforming Evidence Code to Federal Rules (Part 1)
- CID Law (Part 3)

2005-06 Expected (Budget Year Target)

- Legal Malpractice
- Conforming Evidence Code to Federal Rules (Part 2)
- CID Law (Part 3)

2006-07 Expected (Target)

- Civil Discovery (Final Part)
- Mechanics Lien Law
- Conforming Evidence Code to Federal Rules (Part 3)
- CID Law (Part 4)

2007-08 Expected (Target)

- Conforming Evidence Code to Federal Rules (Final Part)
- CID Law (Final Part)
- Contractual Arbitration

Uniform Trust Code
General Assignments for Benefit of Creditors

RESOURCE ASSUMPTIONS

All goals, objectives, and performance targets are based on the Law Revision Commission's 2003-04 appropriation. They assume that Commission funding will remain stable for the next four fiscal years.

The major adjustment required by the Commission will be an augmentation of approximately \$200,000 to rebuild the Commission's staff to its optimal level for fullest productivity. The Commission does not plan to seek the augmentation until there is a significant improvement in the state's budget situation.

Depending on how relocation opportunities develop, the Commission will in 2005-06 or thereafter need to seek an adjustment for office relocation expenses.

APPENDIX ITEMS

Methodology Statement

This strategic plan was compiled by the California Law Revision Commission's executive staff, based on (1) the Legislature's 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.

Legal Resource Requirements for CLRC Projects

This appendix item quantifies current and future legal resource requirements for CLRC projects. It is the basis for the objectives and performance measures set out in this strategic plan.

For convenience, we use the term "legal resource year" (LRY) to represent the amount of legal resources that would be devoted to a project by an attorney working full time for one year.

On average, a major CLRC project requires 2.5 LRY. On average, a smaller CLRC project requires .3 LRY. Due to the nature of a project, the actual time required to complete the project is not concentrated into a .3 calendar year period or a 2.5 calendar year period but is spread over time. That enables an attorney to devote legal resources to several projects simultaneously during the year.

Currently the Commission is staffed with three attorneys — two full time and one 3/4 time. That does not mean we are able to devote 2.75 LRY to CLRC projects. Because the Commission is currently understaffed at the support level, part of the attorneys' time is diverted to administrative work. Each full time attorney is able to devote an average of .75 LRY to CLRC projects. The legal resources available for CLRC projects at our current staffing level is 2.25 LRY.

Legal Resources Required to Complete Currently Active Projects

Jurisdictional Limits	.5 LRY
Mechanics Liens	2.5 LRY
CID Law	2.5 LRY
Financial Privacy	.5 LRY
Civil Discovery	1.5 LRY
Evidence	2.0 LRY
Administrative Law	.2 LRY
Multiple Party Accounts	.2 LRY
Waiver of Privilege	.2 LRY
Unincorporated Associations	.2 LRY
Legal Malpractice	.3 LRY
Contractual Attorney Fees	.3 LRY
Trial Court Restructuring	.3 LRY

Civil Procedure Miscellany	.3 LRY
Obsolete Reporting Requirements	.3 LRY
TOTAL	11.8 Legal Resource Years

At current staffing level, active projects will require 5.2 calendar years to complete. That assumes no other priority project intervenes.

Legal Resources Required to Complete Scheduled but Not Yet Active Projects

Arbitration	2.5 LRY
Uniform Trust Code	.3 LRY
General Assignments	.3 LRY
TOTAL	3.1 Legal Resource Years

At current staffing level, scheduled but not yet active projects will require 1.4 calendar years to complete.

Legal Resources Required to Complete Assigned but Unscheduled Projects

Special Assessments	2.5 LRY
Foreclosure	2.5 LRY
Attorneys Fees	2.5 LRY
Public Records	2.5 LRY
Subdivision Map Act	2.5 LRY
TOTAL	12.5 Legal Resource Years

At current staffing level, assigned but unscheduled projects will require 5.6 calendar years to complete.

The cost to add an entry level legal position to the Commission's staff is \$80,000/year (including salary, benefits, and overhead). That would result in a direct increase of 1 LRY for each position added.

A preferable alternative would be to add a half-time administrative assistant position. At a cost of \$30,000/year, that would free up .5 LRY of existing attorneys' time. In addition, we could increase the time base of our part time attorney from 3/4 to 7/8. That would yield .125 LRY at a cost of \$10,000/year.

For maximum operational efficiency, CLRC would be staffed with one secretary, one administrative assistant (1/2 time), and 5 attorneys, yielding 5 LRY. That is more than twice the Commission's current legal resource availability. That staffing level would cut estimated project completion times set out above by more than 50%.