

Memorandum 2013-43

2013 Legislative Program (Status Report)

The attached table summarizes the current status of the Commission's¹ 2013 legislative program. If necessary, the staff will update that information orally at the October meeting.

NEW COMMISSION STUDY

Senate Concurrent Resolution 54 (Padilla) has now been approved by the Legislature. See 2013 Cal. Stat. res. ch. 115. That resolution assigns the Commission a new study, relating to state and local agency access to the customer records of communication service providers. See Exhibit p. 2.

The Commission has since received a letter from Senator Padilla, confirming the approval of SCR 54 and providing some background information relating to the new assignment. See Exhibit p. 4.

Although the Commission is now authorized to begin work on the topic, the docket for our December meeting is quite full. It seems likely that work on the topic will begin at the first meeting in 2014.

Respectfully submitted,

Brian Hebert
Executive Director

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

Status of 2013 Commission Legislative Program

As of September 25, 2013

		AB 567	AB 383	SB 745	SB 752						
	Introduced Last Amended	2/20/13	2/14/13	2/22/13	2/22/13						
		—	5/28/13	8/5/13	9/3/13						
First House	Policy Committee	4/2/13	4/2/13	4/23/13	4/16/13						
	Second Committee	—	—		5/7/13						
	Passed House	4/8/13	4/8/13	5/2/13	5/16/13						
Second House	Policy Committee	6/4/13	6/25/13	6/19/13	7/2/13						
	Second Committee	—	—	7/3/13	8/14/13						
	Passed House	6/10/13	7/1/13	8/8/13	9/6/13						
Concurrence		—	7/3/13	8/15/13	9/12/13						
Governor	Received Approved	6/14/13	8/1/13	8/20/13	9/19/13						
		6/24/13	8/12/13	8/27/13							
Secretary of State	Date Chapter #	6/24/13	8/12/13	8/27/13							
		15	76	183							

Bill List: AB 567 (Wagner): Exemptions from Enforcement of Money Judgments
 AB 383 (Wagner): Maintenance of the Codes (includes Deadly Weapons Clean-Up)
 SB 745 (Committee on Transportation and Housing) CID Cleanup
 SB 752 (Roth) Commercial and Industrial CIDs

Also of Interest:
 SCR 54 (Padilla): CLRC Study of Government Access to Communication Records

KEY
Italics: Future or speculative
 “—”: Not applicable
 *: Double referral, not fiscal
 [date]: Deadline

Senate Concurrent Resolution No. 54

RESOLUTION CHAPTER 115

Senate Concurrent Resolution No. 54—Relative to the California Law Revision Commission.

[Filed with Secretary of State September 10, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SCR 54, Padilla. California Law Revision Commission: referral for study. Existing law requires the California Law Revision Commission to study any topic referred to it for study by concurrent resolution of the Legislature. This measure would require the commission to report to the Legislature recommendations to revise statutes governing access by state and local government agencies to customer information from communications service providers, as specified.

WHEREAS, Widespread use of 21st Century mobile and Internet-based communications technologies and services enable service providers to monitor, collect, and retain large quantities of information regarding customers, including when and with whom a customer communicates or transacts business, location data, and the content of communications; and

WHEREAS, Government requests to communications service providers for customer information have increased dramatically in recent years, especially by law enforcement agencies; and

WHEREAS, California statutes governing access to customer information lack clarity and uniform definitions as to the legal standard for government agencies to obtain customer information from communications service providers, and many were enacted prior to the advent of wireless mobile services and the Internet; and

WHEREAS, Revising and updating these statutes is necessary to reflect modern technologies and clarify the rights and responsibilities of customers, communications service providers, and government agencies seeking access to customer information; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Law Revision Commission shall report to the Legislature recommendations to revise statutes governing access by state and local government agencies to customer information from communications service providers in order to do all of the following:

(a) Update statutes to reflect 21st Century mobile and Internet-based technologies.

(b) Protect customers' constitutional rights, including, but not limited to, the rights of privacy and free speech, and the freedom from unlawful searches and seizures.

- (c) Enable state and local government agencies to protect public safety.
- (d) Clarify the process communications service providers are required to follow in response to requests from state and local agencies for customer information or in order to take action that would affect a customer's service, with a specific description of whether a subpoena, warrant, court order, or other process or documentation is required; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

California State Senate

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September 12, 2013

Mr. Brian Hebert
Executive Director
California Law Revision Commission
UC Davis School of Law, Rm. 1128
Davis, CA 95616

Dear Mr. Hebert:

I am pleased to report that the California Legislature has unanimously approved Senate Concurrent Resolution 54, which directs the California Law Revision Commission to make recommendations to revise statutes on state and local government access to customer information from communications service providers. The Secretary of State has chaptered SCR 54 as Resolutions Chapter 115 of the Statutes of 2013.

The rapid pace of technological change in telecommunications has made it extremely challenging for the Legislature to keep our state laws updated to reflect the vast amount of customer information that providers collect with today's mobile and Internet-based services. Even before the current national debate about federal government surveillance of communications, I was focused on the need to update California statutes to reflect modern technologies. Recent revelations about federal surveillance methods add urgency to this issue. The thoughtful and deliberative review and recommendations from the Law Revision Commission will greatly assist the Legislature in this task.

At your request, I am enclosing background information that led to my introduction of SCR 54. This information includes an opinion of the Office of Legislative Counsel dated April 25, 2013, as well as a list of statutes that may be a helpful starting point for the commission in reviewing current law within the scope of SCR 54.

Mr. Brian Hebert
September 12, 2013
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Given that my term of office in the California Senate ends in November 2014, I recognize that the commission's final recommendations may not be complete during my tenure. Nonetheless, I look forward to monitoring the commission's progress in the coming year and assure you that your recommendations on this important matter will be received by legislative leaders, committee members, and staff.

Please do not hesitate to contact me if I can provide any additional information.

Sincerely,



ALEX PADILLA, Chair
State Senator, 20th District

cc: Senator Darrell Steinberg, President pro Tempore
Assemblymember John A. Pérez, Speaker
Senator Noreen Evans, Chair, Senate Judiciary Committee
Assemblymember Bob Wieckowski, Chair, Assembly Judiciary Committee