

Memorandum 2013-48

2013-2014 Annual Report (Staff Draft)

Attached to this memorandum is a staff draft of the Commission's *2013-2014 Annual Report*. In the interest of saving photocopying and mailing costs, we have not reproduced the appendices to the Annual Report (e.g., text of Commission's governing statute, calendar of topics, cumulative table of legislative action on Commission recommendations, supplemental reports on bills implementing Commission recommendations, and Commission publications). After approval of the text of the Annual Report, the staff will add these appendices.

Much of the content of the Annual Report is routine, and does not change significantly from year to year. Matters requiring special attention are noted below.

CONTINGENT TEXT

Some portions of the presented draft, appearing on pages 3 and 10, are contingent on Commission decisions expected to be made at the upcoming December meeting. Those portions, which have been temporarily flagged with light shading, include the following:

- The disposition of the Commission's pending studies on the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA), Technical and Minor Substantive Statutory Corrections, and Deadly Weapons: Minor Clean-Up Issues
- The Commission's new topics and priorities for 2014

Depending on decisions made on these matters at the upcoming meeting, technical adjustments to the report could be needed. In that event, unless the Commission directs otherwise, the staff will make the adjustments after the meeting, pursuant to the staff's authorized discretion to make editorial changes

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.

of that character. See *CLRC Handbook of Practice and Procedures*, Rule 2.7.4 (Dec. 2010).

BIOGRAPHIES OF CURRENT COMMISSIONERS

Attached as an Exhibit to this memorandum is a proposed draft of Exhibit 6 of the Annual Report, which each year presents summary biographies of current Commissioners. The summaries in the attached Exhibit are nearly verbatim reproductions of corresponding summaries that appeared in the *2012-13 Annual Report*, modified only to reflect known changes to current employment occurring over the past year.

Please notify the staff if any other information contained in the attached draft requires updating, and the staff will revise the draft accordingly.

ACTIVITIES OF COMMISSION MEMBERS AND STAFF

The report typically notes any activities of Commission members and staff related to the Commission's work, such as speeches made and articles published during the past year. See p. 26.

Please notify the staff if you have any activities of this nature to report, which would then be added to the draft.

EDITORIAL SUGGESTIONS

If you have any editorial suggestions relating to the draft Annual Report, please be sure to inform the staff.

Respectfully submitted,

Steve Cohen
Staff Counsel

APPENDIX 6

BIOGRAPHIES OF CURRENT COMMISSIONERS

Damian Capozzola, of Hermosa Beach, serves as the Chairperson of the Commission, and is the founder of the Law Offices of Damian D. Capozzola. He was previously a partner with the law firm of Crowell and Moring LLP from 2011 to 2013, an attorney with the law firm of Epstein Becker and Green P.C. from 2007 to 2011, and an attorney with the law firm of Kirkland and Ellis LLP from 1996 to 2007. Commissioner Capozzola received a Juris Doctor degree from the University of Virginia School of Law.

Victor King, of La Crescenta, serves as the Vice-Chairperson of the Commission, and has been university legal counsel for California State University, Los Angeles since 2002. He was previously a partner with the law firm of Lewis Brisbois Bisgaard and Smith LLP from 2001 to 2002, an associate with the law firm of Lewis Brisbois Bisgaard and Smith LLP from 1999 to 2001, an associate with the law firm of Bottum and Feliton from 1996 to 1999, and an associate with the law firm of Ochoa and Sillas from 1991 to 1995. He was also a trustee of the Glendale Community College District from 1997 to 2009. Commissioner King received a Juris Doctor degree from the University of Michigan Law School.

Xochitl Carrion, of San Francisco, has been an attorney with the law firm of Goldfarb and Lipman LLP since 2007. She is also the Northern District Vice President of the California La Raza Lawyers Association, a member of San Francisco La Raza Lawyers Association (SFLRLA), and has served as president of the SFLRLA. Commissioner Carrion received a Juris Doctor degree from the University of California, Hastings College of the Law.

Diane Boyer-Vine, of Sacramento, has been Legislative Counsel for the State of California since 2002. She was previously a deputy and thereafter a chief deputy in the Legislative Counsel's office from 1988 to 2002, and before that an associate with the law

firm of Martorana and Stockman. She also serves as a member of the California Commission on Uniform State Laws. Commissioner Boyer-Vine received a Juris Doctor degree from the University of California, Davis School of Law.

Judge Patricia Cowett (ret.), of San Diego, has been a mediator with Alternative Dispute Resolution Services, Inc. since 2009. She was previously a judge on the San Diego Superior Court from 1998 to 2008, a judge on the San Diego Municipal Court from 1979 to 1998, and presiding judge of the San Diego Municipal Court in 1991. Commissioner Cowett received a Juris Doctor degree from the University of California, Davis School of Law.

Assembly Member Roger Dickinson, of Sacramento, has been a member of the Assembly since 2010. He previously helped form the law firm of Kemnitzer, Dickinson, Anderson & Barron. He also served on the Sacramento County Board of Supervisors from 1994 to 2010, was a member and board chair of the Sacramento Housing and Redevelopment Commission, a board member and president of the American Lung Association of Sacramento, chair of the Sacramento Transportation Coalition, president of the Friends of Light Rail, board member of the Sacramento Tree Foundation, and member of the Regional Transit Board of Directors, the Sacramento County Air Pollution Control Advisory Board, and the North Sacramento Community Plan Citizens Advisory Committee. Commissioner Dickinson received a Juris Doctor degree from the University of California, Los Angeles School of Law.

Taras Peter Kihiczak, of Pacific Palisades, has been a lawyer with and shareholder of The Kick Law Firm APC since 1991. He was previously a lawyer with the law firm of Thelen Marrin Johnson and Bridges from 1989 to 1990. Commissioner Kihiczak received a Juris Doctor degree from the University of Pennsylvania Law School.

Susan Duncan Lee, of Tiburon, has been a deputy attorney general and thereafter a supervising deputy attorney general with

the California Department of Justice since 1989. Commissioner Lee received a Juris Doctor degree from the University of California, Hastings College of the Law.

Senator Ted Lieu, of Torrance, has been a member of the Senate since 2011, and a member of the Assembly from 2005 to 2010. He was previously an attorney with the law firm of Munger, Tolles & Olson, clerked for the Ninth Circuit Court of Appeals, and served as a prosecutor in the JAG Corps of the United States Air Force. He has also served on the Torrance City Council, the Torrance Environmental Quality and Energy Conservation Commission, and the Rampart Independent Review Panel. Commissioner Lieu received a Juris Doctor degree from Georgetown University Law Center.

Crystal Miller-O'Brien, of Los Angeles, has been corporate counsel for Medical Management Consultants, Inc. since 2006. She was previously an associate with the law firm of Anderson McPharlin and Connors LLP from 2005 to 2006, an associate with the law firm of Robie and Matthai PC from 2003 to 2005, and an associate with the law firm of Bullivant Houser Bailey PC from 2002 to 2003. She has also served on the board of directors of the Conference of California Bar Associations since 2009, is a member of the Black Women Lawyers Association of Los Angeles, and a member of the National Association of Women Business Owners. Commissioner Miller-O'Brien received a Juris Doctor degree from Willamette University College of Law.

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

2013-2014 Annual Report

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
www.clrc.ca.gov

Cite this report as *2013-2014 Annual Report*, 43 Cal. L. Revision
Comm'n Reports __ (2013).

SUMMARY OF WORK OF COMMISSION

Recommendations to the 2013 Legislature

In 2013, bills effectuating five Commission recommendations and part of a sixth were enacted, relating to the following subjects:

- Commercial and industrial common interest developments
- Commercial and industrial subdivisions
- Statutory clarification and simplification of CID law (clean-up legislation)
- Third decennial review of exemptions from enforcement of money judgments
- Nonsubstantive reorganization of deadly weapon statutes (clean-up legislation)

Recommendations to the 2014 Legislature

In 2014, the Commission plans to seek the introduction of legislation effectuating Commission recommendations on the following subjects:

- Adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA)
- Technical and Minor Substantive Statutory Corrections
- Deadly Weapons: Minor Clean-Up Issues

Commission Activities Planned for 2014

During 2014, the Commission intends to work on the following major topics: mediation confidentiality, revision of the Fish and Game Code, and state and local agency access to customer information from communications service providers. The Commission will work on other topics as time permits.

CONTENTS

	<i>Page</i>
Introduction	9
2014 Legislative Program	10
Major Studies in Progress	10
Mediation Confidentiality	11
Revision of the Fish and Game Code	11
State and Local Agency Access to Customer Information Held by Communications Service Providers	11
Other Subjects	11
Calendar of Topics for Study	11
Function and Procedure of Commission	12
Background Studies	13
Recommendations	14
Official Comments	15
Commission Materials as Legislative History	15
Use of Commission Materials To Determine Legislative Intent	17
Publications	22
Electronic Publication and Internet Access	22
Electronic Mail	23
MCLE Credit	23
Personnel of Commission	23
Commission Budget	25
Other Activities	26
National Conference of Commissioners on Uniform State Laws	26
Other Staff Activities	26
Legislative History of Recommendations in the 2013 Legislative Session	26
Nonsubstantive Reorganization Of Deadly Weapon Statutes (Clean-Up Legislation)	27

Third Decennial Review of Exemptions from
 Enforcement of Money Judgments27
 Statutory Clarification and Simplification of CID Law
 (Clean-Up Legislation)27
 Commercial and Industrial Developments.....27
 Report on Statutes Repealed by Implication or Held
 Unconstitutional28
 Recommendations29

APPENDICES

1. Statute Governing the California Law Revision
 Commission —
 2. Calendar of Topics Authorized for Study —
 3. Legislative Action on Commission
 Recommendations (Cumulative)..... —
 4. Report of the California Law Revision
 Commission on Chapter 183 of the Statutes
 of 2013 (Senate Bill 745) —
 5. Report of the California Law Revision
 Commission on Chapter 605 of the Statutes
 of 2012 (Senate Bill 752) —
 6. Biographies of Current Commissioners —
 7. Commission Publications —

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
650-494-1335

DAMIAN CAPOZZOLA, Chairperson
VICTOR KING, Vice-Chairperson
DIANE F. BOYER-VINE
XOCHITL CARRION
JUDGE PATRICIA COWETT (RET.)
ASSEMBLY MEMBER ROGER DICKINSON
TARAS KIHICZAK
SUSAN DUNCAN LEE
SENATOR TED LIEU
CRYSTAL MILLER-O'BRIEN

December 13, 2013

To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California

In conformity with Government Code Section 8293, the California Law Revision Commission submits this report of its activities during 2013 and its plans for 2014.

Five Commission recommendations considered by the Legislature in 2013, and part of a sixth, were enacted into law, in whole or in substantial part.

The Commission is grateful to the members of the Legislature who carried Commission-recommended legislation in 2013:

- Assembly Member Donald Wagner (Third Decennial Review of Exemptions From Enforcement of Money Judgments; Nonsubstantive Reorganization of Deadly Weapon Statutes (Clean-Up Legislation))
- Senator Richard Roth (Commercial and Industrial Common Interest Developments; Commercial and Industrial Subdivisions)

- Senate Committee on Transportation and Housing (Statutory Clarification and Simplification of CID Law) (Clean-Up Legislation); Statutory Clarification and Simplification of CID Law) (Further Clean-Up Legislation))

The Commission held six one-day meetings in 2013. Meetings were held in Sacramento, Los Angeles, Davis, and San Diego.

Respectfully submitted,

Damian Capozzola
Chairperson

2013-2014 ANNUAL REPORT

Introduction

The California Law Revision Commission was created in 1953 and commenced operation in 1954 as the permanent successor to the Code Commission,¹ with responsibility for a continuing substantive review of California statutory and decisional law.² The Commission studies the law to discover defects and anachronisms and recommends legislation to make needed reforms.

The Commission ordinarily works on major topics, assigned by the Legislature, that require detailed study and cannot easily be handled in the ordinary legislative process. The Commission's work is independent, nonpartisan, and objective.

The Commission consists of:³

- A Member of the Senate appointed by the Rules Committee
- A Member of the Assembly appointed by the Speaker
- Seven members appointed by the Governor with the advice and consent of the Senate
- The Legislative Counsel, who is an ex officio member

The Commission may study only topics that the Legislature has authorized.⁴

1. See 1953 Cal. Stat. ch. 1445, operative September 9, 1953. The first meeting of the Commission was held on February 23, 1954.

2. See Gov't Code §§ 8280-8298 (statute establishing Law Revision Commission) (Appendix 1 *infra*). See also *1955 Report* [Annual Report for 1954] at 7, 1 Cal. L. Revision Comm'n Reports (1957).

3. For current membership, see "Personnel of Commission" *infra*.

4. Under its general authority, the Commission may study only topics that the Legislature, by concurrent resolution, authorizes for study. See *Calendar of Topics Authorized for Study*, Appendix 2 *infra*. However, the Commission may study and recommend revisions to correct technical or minor substantive defects in state statutes without a prior concurrent resolution. Gov't Code § 8298. Additionally, a concurrent resolution or statute may directly confer authority to study a particular subject. See, e.g., 2013 Cal. Stat. res. ch. 115 [SCR 54] (state and local agency access to customer information from communications service providers); 2006 Cal. Stat. res. ch. 128 [ACR 73] (nonsubstantive reorganization

The Commission has submitted 404 recommendations to the Legislature, of which 371 (more than 90%) have been enacted in whole or in substantial part.⁵ Commission recommendations have resulted in the enactment of legislation affecting 24,899 sections of California law: 5,023 sections amended, 10,942 sections added, and 8,934 sections repealed.

The Commission's recommendations, reports, and other selected materials are published annually in hardcover volumes. Recent materials are also available through the Internet. A list of past publications and information on obtaining printed or electronic versions of Commission material can be found at the end of this Annual Report.⁶

2014 Legislative Program

In 2014, the Commission plans to seek the introduction of legislation effectuating Commission recommendations on the following subjects:

- Adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA)
- Technical and Minor Substantive Statutory Corrections
- Deadly Weapons: Minor Clean-Up Issues

Major Studies in Progress

During 2014, the Commission intends to work on the following major topics: mediation confidentiality, revision of the Fish and Game Code, and state and local agency access to customer information from communications service providers. The Commission will work on other topics as time permits.

of weapon statutes); 2006 Cal. Stat. ch. 216 [AB 2034] (donative transfer restrictions).

5. See *Legislative Action on Commission Recommendations*, Appendix 3 *infra*.

6. See *Commission Publications*, Appendix 7 *infra*.

Mediation Confidentiality

The Commission will analyze the relationship under current law between mediation confidentiality and attorney malpractice and other misconduct, including the purposes for and impact of mediation confidentiality on public protection, professional ethics, attorney discipline, client rights, the willingness of parties to participate in voluntary and mandatory mediation, the effectiveness of mediation, and other relevant issues.⁷

Revision of the Fish and Game Code

The Commission will study revision of the Fish and Game Code and related statutory law to improve organization, clarify meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements, without making any significant substantive change to the effect of the law.⁸

State and Local Agency Access to Customer Information Held by Communications Service Providers

The Commission will study revision of statutes that govern state and local agency access to customer information from communications service providers.⁹

Other Subjects

The major studies described above will dominate the Commission's time and resources during 2014. As time permits, the Commission will continue its work on trial court restructuring and consider other subjects authorized for study.

Calendar of Topics for Study

The Commission's calendar includes 23 topics authorized by the Legislature for study.¹⁰

7. See 2012 Cal. Stat. res. ch. 108.

8. See 2012 Cal. Stat. res. ch. 108.

9. See 2013 Cal. Stat. res. ch. 115.

10. See *Calendar of Topics Authorized for Study*, Appendix 2 *infra*.

Function and Procedure of Commission

The principal duties of the Commission are to:¹¹

- (1) Examine the common law and statutes for the purpose of discovering defects and anachronisms.
- (2) Receive and consider suggestions and proposed changes in the law from the American Law Institute, the National Conference of Commissioners on Uniform State Laws,¹² bar associations, and other learned bodies, and from judges, public officials, lawyers, and the public generally.
- (3) Recommend such changes in the law as it deems necessary to bring California law into harmony with modern conditions.¹³

The Commission is required to file a report at each regular session of the Legislature containing a calendar of topics selected by it for study, listing both studies in progress and topics intended for future consideration. Under its general authority, the Commission may study only topics that the Legislature, by concurrent resolution, authorizes for study.¹⁴ However, the Commission may study and recommend revisions to correct technical or minor substantive defects in state statutes without a

11. Gov't Code §§ 8280-8298 (statute governing California Law Revision Commission). See Appendix 1 *infra*.

12. The Legislative Counsel, an ex officio member of the Law Revision Commission, serves as a Commissioner of the Commission on Uniform State Laws. See Gov't Code § 8261.

13. Gov't Code § 8289. The Commission is also directed to recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the California Supreme Court or the United States Supreme Court. Gov't Code § 8290. See "Report on Statutes Repealed by Implication or Held Unconstitutional" *infra*.

14. Gov't Code § 8293. Section 8293 requires a concurrent resolution authorizing the Commission to study topics contained in the calendar of topics set forth in the Commission's regular report to the Legislature. Section 8293 also requires that the Commission study any topic that the Legislature by concurrent resolution or statute refers to the Commission for study.

prior concurrent resolution.¹⁵ Additionally, a concurrent resolution¹⁶ or statute¹⁷ may directly confer authority to study a particular subject.

Background Studies

The Commission's work on a recommendation typically begins after a background study has been prepared. The background study may be prepared by a member of the Commission's staff or by a specialist in the field who is retained as a consultant.¹⁸ Law professors and practicing attorneys who serve as consultants have already acquired the considerable knowledge necessary to understand the specific problems under consideration, and receive little more than an honorarium for their services. From time to

15. Gov't Code § 8298.

16. For an example of a concurrent resolution referring a specific topic to the Commission for study, see 2006 Cal. Stat. res. ch. 128 [ACR 73] (nonsubstantive reorganization of weapon statutes).

17. For example, Code of Civil Procedure Section 703.120(a) requires the Commission to review statutes providing for exemptions from enforcement of money judgments every 10 years and to recommend any needed revisions. The Commission also has continuing statutory authority to study enforcement of judgments pursuant to Code of Civil Procedure Section 703.120(b).

Government Code Section 70219 requires the Commission, in consultation with the Judicial Council, to perform follow-up studies taking into consideration the experience in courts that have unified. For a list of specific studies, see *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 82-86 (1998).

Government Code Section 71674 requires the Commission to recommend repeal of provisions made obsolete by the Trial Court Employment Protection and Governance Act (Gov't Code § 71600 *et seq.*), Lockyer-Isenberg Trial Court Funding Act of 1997 (1997 Cal. Stat. ch. 850), and the implementation of trial court unification.

Statutory authority may be uncodified. See, e.g., 2005 Cal. Stat. ch. 422 (beneficiary deeds).

18. The following persons are presently under contract as Commission consultants, or have served in that capacity on presently active studies: James E. Acret, Pacific Palisades; Professor Susan F. French, UCLA School of Law; Keith Honda, Monterey; Gordon Hunt, Hunt Ortmann; Professor J. Clark Kelso, McGeorge School of Law; Professor Miguel A. Méndez, UC Davis School of Law; Nathaniel Sterling, former Executive Secretary, California Law Revision Commission, Palo Alto; Professor Gregory S. Weber, McGeorge School of Law.

time, expert consultants are also retained to advise the Commission at meetings.

Recommendations

After making its preliminary decisions on a subject, the Commission ordinarily distributes a tentative recommendation to interested persons and organizations, including the State Bar, local and specialized bar associations, public interest organizations, and business and professional associations. Notice of the availability of the tentative recommendation is mailed to interested persons on the Commission's mailing list and publicized in legal newspapers and other relevant publications. Notice is also posted on the Commission's website and emailed to interested persons.

Comments received on the tentative recommendation are considered by the Commission in determining what recommendation, if any, will be made to the Legislature.¹⁹ When the Commission has reached a conclusion on the matter,²⁰ its recommendation to the Legislature (including a draft of any necessary legislation) is published and distributed in printed form and on the Internet. If a background study has been prepared in connection with the recommendation, it may be published by the Commission or in a law review.²¹

19. For a step-by-step description of the procedure followed by the Commission in preparing the 1963 governmental liability statute, see DeMouly, *Fact Finding for Legislation: A Case Study*, 50 A.B.A. J. 285 (1964). The procedure followed in preparing the Evidence Code is described in 7 Cal. L. Revision Comm'n Reports 3 (1965). See also Gaal, *Evidence Legislation in California*, 36 S.W.U. L. Rev. 561, 563-69 (2008); Quillinan, *The Role and Procedures of the California Law Revision Commission in Probate and Trust Law Changes*, 8 Est. Plan. & Cal. Prob. Rep. 130-31 (Cal. Cont. Ed. Bar 1987).

20. 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. Dissents are noted in the minutes of the meeting at which the recommendation is approved.

21. For recent background studies published in law reviews, see Méndez, *California Evidence Code - Federal Rules of Evidence, IX. General Provisions*, 44 U.S.F. L. Rev. 891 (2010); Méndez, *California Evidence Code - Federal Rules of Evidence, VIII. Judicial Notice*, 44 U.S.F. L. Rev. 141 (2009); Méndez, *California Evidence Code - Federal Rules of Evidence, VII. Relevance*:

Official Comments

The Commission ordinarily prepares an official Comment explaining each section it recommends for enactment, amendment, or repeal. The Comments are included in the Commission's published recommendations. A Comment indicates the derivation of a section and often explains its purpose, its relation to other law, and potential issues concerning its meaning or application.²²

Commission Materials as Legislative History

Commission recommendations are printed and sent to both houses of the Legislature, as well as to the Legislative Counsel and

Definition and Limitations, 42 U.S.F. L. Rev. 329 (2007); Méndez, *California Evidence Code – Federal Rules of Evidence*, VI. *Authentication and the Best and Secondary Evidence Rules*, 41 U.S.F. L. Rev. 1 (2006); Méndez, *California Evidence Code - Federal Rules of Evidence*, V. *Witnesses: Conforming the California Evidence Code to the Federal Rules of Evidence*, 39 U.S.F. L. Rev. 455 (2005); Alford, *Report to Law Revision Commission Regarding Recommendations for Changes to California Arbitration Law*, 4 Pepp. Disp. Resol. L.J. 1 (2004); Méndez, *California Evidence Code - Federal Rules of Evidence*, IV. *Presumptions and Burden of Proof: Conforming the California Evidence Code to the Federal Rules of Evidence*, 38 U.S.F. L. Rev. 139 (2003); Méndez, *California Evidence Code - Federal Rules of Evidence*, I. *Hearsay and Its Exceptions: Conforming the Evidence Code to the Federal Rules*, 37 U.S.F. L. Rev. 351 (2003); Méndez, *California Evidence Code - Federal Rules of Evidence*, II. *Expert Testimony and the Opinion Rule: Conforming the Evidence Code to the Federal Rules*, 37 U.S.F. L. Rev. 411 (2003); Méndez, *California Evidence Code - Federal Rules of Evidence*, III. *The Role of Judge and Jury: Conforming the Evidence Code to the Federal Rules*, 37 U.S.F. L. Rev. 1003 (2003).

For a list of background studies published in law reviews before 2003, see 32 Cal. L. Revision Comm'n Reports 585 n.14 (2002); 20 Cal. L. Revision Comm'n Reports 198 n.16 (1990); 19 Cal. L. Revision Comm'n Reports 513 n.22 (1988); 18 Cal. L. Revision Comm'n Reports 212 n.17, 1713 n.20 (1986); 17 Cal. L. Revision Comm'n Reports 819 n.6 (1984); 16 Cal. L. Revision Comm'n Reports 2021 n.6 (1982); 13 Cal. L. Revision Comm'n Reports 1628 n.5 (1976); 11 Cal. L. Revision Comm'n Reports 1008 n.5, 1108 n.5 (1973); 10 Cal. L. Revision Comm'n Reports 1108 n.5 (1971).

22. Commission Comments are published by LexisNexis and Thomson Reuters in their print and CD-ROM editions of the annotated codes, and printed in selected codes prepared by other publishers. Comments are also available on Westlaw, Westlaw Next, and LexisNexis.

Governor.²³ Receipt of a recommendation by the Legislature is noted in the legislative journals, and the recommendation is referred to the appropriate policy committee.²⁴

The bill introduced to effectuate a Commission recommendation is assigned to legislative committees charged with study of the matter in depth.²⁵ A copy of the recommendation is provided to legislative committee members and staff before the bill is heard and throughout the legislative process. The legislative committees rely on the recommendation in analyzing the bill and making recommendations to the Legislature concerning it.²⁶

If an amendment is made to the bill that renders one of the Commission's original Comments inconsistent, the Commission generally will adopt a revised Comment and provide it to the committee. The Commission also provides this material to the Governor's office once the bill has passed the Legislature and is before the Governor for action. These materials are a matter of public record.

Until the mid-1980s, a legislative committee, on approving a bill implementing a Commission recommendation, would adopt the

23. See Gov't Code §§ 8291, 9795, 11094-11099; see also *Reynolds v. Superior Court*, 12 Cal. 3d 834, 847 n.18, 528 P.2d 45, 53 n.18, 117 Cal. Rptr. 437, 445 n.18 (1974) (Commission "submitted to the Governor and the Legislature an elaborate and thoroughly researched study").

24. See, e.g., Senate J. Aug. 18, 2003, at 2031 (noting receipt of 2002-2003 recommendations and their transmittal to the Committee on Judiciary).

25. See, e.g., Office of Chief Clerk, California State Assembly, California's Legislature 126-27 (2000) (discussing purpose and function of legislative committee system).

26. The Commission does not concur with the suggestion of the court in *Conservatorship of Wendland*, 26 Cal. 4th 519, 542, 28 P.3d 151, 166, 110 Cal. Rptr. 2d 412, 430 (2001), that a Commission Comment might be entitled to less weight based on speculation that the Legislature may not have read and endorsed every statement in the Commission's report. That suggestion belies the operation of the committee system in the Legislature. See White, *Sources of Legislative Intent in California*, 3 Pac. L.J. 63, 85 (1972) ("The best evidence of legislative intent must surely be the records of the legislature itself and the reports which the committees relied on in recommending passage of the legislation.").

Commission's recommendation as indicative of the committee's intent in approving the bill.²⁷ If a Comment required revision, the revised Comment would be adopted as a legislative committee Comment. The committee's report would be printed in the journal of the relevant house.²⁸

The Legislature has discontinued the former practice due to increased committee workloads and an effort to decrease the volume of material reprinted in the legislative journals. Under current practice, a legislative committee relies on Commission materials in its analysis of a bill, but does not separately adopt the materials. Instead, the Commission makes a report detailing the legislative history of the bill, including any revised Comments. Bill reports are published as appendices to the Commission's annual reports.²⁹

Use of Commission Materials To Determine Legislative Intent

Commission materials that have been placed before and considered by the Legislature are legislative history, are declarative of legislative intent,³⁰ and are entitled to great weight in

27. See, e.g., *Baldwin v. State*, 6 Cal. 3d 424, 433, 491 P.2d 1121, 1126, 99 Cal. Rptr. 145, 150 (1972). For a description of legislative committee reports adopted in connection with the bill that became the Evidence Code, see *Arellano v. Moreno*, 33 Cal. App. 3d 877, 884, 109 Cal. Rptr. 421, 426 (1973).

28. For an example of such a report, see *Report of Senate Committee on Judiciary on Assembly Bill 3472*, Senate J. June 14, 1984, reprinted in 18 Cal. L. Revision Comm'n Reports 1, 115 (1986).

29. Commission reports have in the past been published as well in the legislative journals. See, e.g., *In re Marriage of Neal*, 153 Cal. App. 3d 117, 124, 200 Cal. Rptr. 341, 345 (1984) (noting that Chairman of Senate Judiciary Committee, when reporting on AB 26 on Senate floor, moved that revised Commission report be printed in Senate Journal as evidence of legislative intent).

30. See, e.g., *Fair v. Bakhtiari*, 40 Cal. 4th 189, 195, 147 P.3d 653, 657, 51 Cal. Rptr. 3d 871, 875 (2006) ("The Commission's official comments are deemed to express the Legislature's intent."); *People v. Williams*, 16 Cal. 3d 663, 667-68, 547 P.2d 1000, 128 Cal. Rptr. 888 (1976) ("The official comments of the California Law Revision Commission on the various sections of the Evidence Code are declarative of the intent not only of the draft[ers] of the code but also of the legislators who subsequently enacted it.").

construing statutes.³¹ The materials are a key interpretive aid for practitioners as well as courts,³² and courts may judicially notice and rely on them.³³ Courts at all levels of the state³⁴ and federal³⁵ judicial systems depend on Commission materials to construe statutes enacted on Commission recommendation.³⁶ Appellate

31. See, e.g., *Dep't of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.*, 40 Cal. 4th 1, 12-13 n.9, 145 P.3d 462, 469 n.9, 50 Cal. Rptr. 3d 585, 593 n.9 (2006) (Commission's official comments are persuasive evidence of Legislature's intent); *Hale v. S. Cal. IPA Med. Group, Inc.*, 86 Cal. App. 4th 919, 927, 103 Cal. Rptr. 2d 773, 778 (2001):

In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute. (*Kern v. County of Imperial* (1990) 226 Cal. App. 3d 391, 400, fn. 8 [276 Cal. Rptr. 524]; *Coopers & Lybrand v. Superior Court* (1989) 212 Cal. App. 3d 524, 535, fn. 7 [260 Cal. Rptr. 713].) In particular, reports and interpretive opinions of the Law Revision Commission are entitled to great weight. (*Schmidt v. Southern Cal. Rapid Transit Dist.* (1993) 14 Cal. App. 4th 23, 30, fn. 10 [17 Cal. Rptr. 2d 340].)

32. *Cf.* 7 B. Witkin, *Summary of California Law Constitutional Law* § 123, at 230 (10th ed. 2005) (Commission reports as aid to construction); Gaylord, *An Approach to Statutory Construction*, 5 Sw. U. L. Rev. 349, 384 (1973).

33. See, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 133 Cal. App. 4th 26, 34 Cal. Rptr. 3d 520 (2005) (providing overview of materials that may be judicially noticed in determining legislative intent); *Hale*, 86 Cal. App. 4th at 927; *Barkley v. City of Blue Lake*, 18 Cal. App. 4th 1745, 1751 n.3, 23 Cal. Rptr. 2d 315, 318-19 n.3 (1993).

34. See, e.g., *Sullivan v. Delta Air Lines, Inc.*, 15 Cal. 4th 288, 298, 935 P.2d 781, 63 Cal. Rptr. 2d 74 (1997) (California Supreme Court); *Admin. Mgmt. Services, Inc. v. Fid. Deposit Co. of Md.*, 129 Cal. App. 3d 484, 488, 181 Cal. Rptr. 141 (1982) (court of appeal); *Rossetto v. Barross*, 90 Cal. App. 4th Supp. 1, 110 Cal. Rptr. 2d 255 (2001) (appellate division of superior court).

35. See, e.g., *California v. Green*, 399 U.S. 149, 154 n.3 (1970) (United States Supreme Court); *S. Cal. Bank v. Zimmerman (In re Hilde)*, 120 F.3d 950, 953 (9th Cir. 1997) (federal court of appeals); *Williams v. Townsend*, 283 F. Supp. 580, 582 (C.D. Cal. 1968) (federal district court); *Ford Consumer Fin. Co. v. McDonell (In re McDonell)*, 204 B.R. 976, 978-79 (B.A.P. 9th Cir. 1996) (bankruptcy appellate panel); *In re Garrido*, 43 B.R. 289, 292-93 (Bankr. S.D. Cal. 1984) (bankruptcy court).

36. See, e.g., *Jevne v. Superior Court*, 35 Cal. 4th 935, 947, 111 P.3d 954, 962, 28 Cal. Rptr. 3d 685, 694-95 (2005) (Commission report entitled to substantial weight in construing statute); *Collection Bureau of San Jose v.*

courts have cited Commission materials in more than a thousand published opinions.³⁷

Commission materials have been used as direct support for a court's interpretation of a statute,³⁸ as one of several indicia of legislative intent,³⁹ to explain the public policy behind a statute,⁴⁰ and on occasion to demonstrate (by their silence) the Legislature's intention not to change the law.⁴¹ The Legislature's failure to adopt a Commission recommendation may be used as evidence of legislative intent to reject the proposed rule.⁴²

Rumsey, 24 Cal. 4th 301, 308 & n.6, 6 P.3d 713, 718 & n.6, 99 Cal. Rptr. 2d 792, 797 & n.6 (2000) (Comments to reenacted statute reiterate the clear understanding and intent of original enactment); *Brian W. v. Superior Court*, 20 Cal. 3d 618, 623, 574 P.2d 788, 791, 143 Cal. Rptr. 717, 720 (1978) (Comments persuasive evidence of Legislature's intent); *Volkswagen Pac., Inc. v. City of Los Angeles*, 7 Cal. 3d 48, 61-63, 496 P.2d 1237, 1247-48, 101 Cal. Rptr. 869, 879-80 (1972) (Comments evidence clear legislative intent of law); *Van Arsdale v. Hollinger*, 68 Cal. 2d 245, 249-50, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968) (Comments entitled to substantial weight), overruled on other grounds by *Privette v. Superior Court*, 5 Cal. 4th 689, 854 P.2d 721, 21 Cal. Rptr. 2d 72 (1993); *County of Los Angeles v. Superior Court*, 62 Cal. 2d 839, 843-44, 402 P.2d 868, 870-71, 44 Cal. Rptr. 796, 798-99 (1965) (statutes reflect policy recommended by Commission).

37. In this connection it should be noted that the Law Revision Commission should not be cited as the "Law Revision Committee" or as the "Law Review Commission." See, e.g., *Venerable v. City of Sacramento*, 185 F. Supp. 2d 1128, 1132 (E.D. Cal. 2002) (Law Revision "Committee"); *Ryan v. Garcia*, 27 Cal. App. 4th 1006, 1010 n.2, 33 Cal. Rptr. 2d 158, 160 n.2 (1994) (Law "Review" Commission).

38. See, e.g., *People v. Ainsworth*, 45 Cal. 3d 984, 1015, 755 P.2d 1017, 1036, 248 Cal. Rptr. 568, 586 (1988).

39. See, e.g., *Heieck & Moran v. City of Modesto*, 64 Cal. 2d 229, 233 n.3, 411 P.2d 105, 108 n.3, 49 Cal. Rptr. 377, 380 n.3 (1966).

40. See, e.g., *Southern Cal. Gas Co. v. Public Utils. Comm'n*, 50 Cal. 3d 31, 38 n.8, 784 P.2d 1373, 1376 n.8, 265 Cal. Rptr. 801, 804 n.8 (1990).

41. See, e.g., *State ex rel. State Pub. Works Bd. v. Stevenson*, 5 Cal. App. 3d 60, 64-65, 84 Cal. Rptr. 742, 745-46 (1970) (finding that Legislature had no intention of changing existing law where "not a word" in Commission's reports indicated intent to abolish or emasculate well-settled rule).

42. See, e.g., *Nestle v. City of Santa Monica*, 6 Cal. 3d 920, 935-36, 496 P.2d 480, 490, 101 Cal. Rptr. 568, 578 (1972).

Commission materials are entitled to great weight, but they are not conclusive.⁴³ While the Commission endeavors in Comments to explain any changes in the law made by a section, the Commission does not claim that every consistent or inconsistent case is noted in the Comments,⁴⁴ nor can it anticipate judicial conclusions as to the significance of existing case authorities.⁴⁵ Hence, failure of the Comment to note every change the recommendation would make in prior law, or to refer to a consistent or inconsistent judicial decision, is not intended to, and should not, influence the construction of a clearly stated statutory provision.⁴⁶

Some types of Commission materials are not properly relied on as evidence of legislative intent. On occasion, courts have cited preliminary Commission materials such as tentative recommendations, correspondence, and staff memoranda and drafts in support of their construction of a statute.⁴⁷ While these

43. See, e.g., *Redevelopment Agency v. Metropolitan Theatres Corp.*, 215 Cal. App. 3d 808, 812, 263 Cal. Rptr. 637, 639 (1989) (Comment does not override clear and unambiguous statute). Commission materials are but one indicium of legislative intent. See, e.g., *Estate of Joseph*, 17 Cal. 4th 203, 216, 949 P.2d 472, 480, 70 Cal. Rptr. 2d 619, 627 (1998). The accuracy of a Comment may also be questioned. See, e.g., *Buzgheia v. Leasco Sierra Grove*, 30 Cal. App. 4th 766, 774, 36 Cal. Rptr. 2d 144, 149 (1994); *In re Thomas*, 102 B.R. 199, 202 (Bankr. E.D. Cal. 1989).

44. *Cf. People v. Coleman*, 8 Cal. App. 3d 722, 731, 87 Cal. Rptr. 554, 559 (1970) (Comments make clear intent to reflect existing law even if not all supporting cases are cited).

45. See, e.g., *Arellano v. Moreno*, 33 Cal. App. 3d 877, 885, 109 Cal. Rptr. 421, 426-27 (1973) (noting that decisional law cited in Comment was distinguished by the California Supreme Court in a case decided after enactment of the Commission recommendation).

46. The Commission does not concur in the *Kaplan* approach to statutory construction. See *Kaplan v. Superior Court*, 6 Cal. 3d 150, 158-59, 491 P.2d 1, 5-6, 98 Cal. Rptr. 649, 653-54 (1971). For a reaction to the problem created by the *Kaplan* approach, see *Recommendation Relating to Erroneously Ordered Disclosure of Privileged Information*, 11 Cal. L. Revision Comm'n Reports 1163 (1973); 1974 Cal. Stat. ch. 227.

47. See, e.g., *Rojas v. Superior Court*, 33 Cal. 4th 407, 93 P.3d 260, 15 Cal. Rptr. 3d 643 (2005) (tentative recommendation, correspondence, and staff

materials may be indicative of the Commission's intent in proposing the legislation, only the Legislature's intent in adopting the legislation is entitled to weight in construing the statute.⁴⁸ Unless preliminary Commission materials were before the Legislature during its consideration of the legislation, those materials are not legislative history and are not relevant in determining the Legislature's intention in adopting the legislation.⁴⁹

A Commission study prepared after enactment of a statute that analyzes the statute is not part of the legislative history of the statute.⁵⁰ However, documents prepared by or for the Commission may be used by the courts for their analytical value, apart from their role in statutory construction.⁵¹

memorandum and draft); *Yamaha Corp. v. State Bd. of Equalization*, 19 Cal. 4th 1, 12-13, 960 P.2d 1031, 1037, 78 Cal. Rptr. 2d 1, 7 (1998) (tentative recommendation). However, in some cases, proposed legislation will be based on a tentative, rather than final, Commission recommendation. See, e.g., *Estate of Archer*, 193 Cal. App. 3d 238, 243, 239 Cal. Rptr. 137, 140 (1987). In that event, reliance on the tentative recommendation is proper.

See also *Ilkhchooyi v. Best*, 37 Cal. App. 4th 395, 406, 45 Cal. Rptr. 2d 766, 772-73 (1995) (letter responding to tentative recommendation); *D. Henke*, California Legal Research Handbook § 3.51 (1971) (background studies).

48. *Cf. Rittenhouse v. Superior Court*, 235 Cal. App. 3d 1584, 1589, 1 Cal. Rptr. 2d 595, 598 (1991) (linking Commission's intent and Legislature's intent); *Guthman v. Moss*, 150 Cal. App. 3d 501, 508, 198 Cal. Rptr. 54, 58 (1984) (determination of Commission's intent used to infer Legislature's intent).

49. The Commission concurs with the opinion of the court in *Juran v. Epstein*, 23 Cal. App. 4th 882, 894 n.5, 28 Cal. Rptr. 2d 588, 594 n.5 (1994), that staff memoranda to the Commission should not be considered as legislative history.

50. See, e.g., *Duarte v. Chino Community Hosp.*, 72 Cal. App. 4th 849, 856 n.3, 85 Cal. Rptr. 2d 521, 525 n.3 (1999).

51. See, e.g., *Sierra Club v. San Joaquin Local Agency Formation Comm'n*, 21 Cal. 4th 489, 502-03, 981 P.2d 543, 551-52, 87 Cal. Rptr. 2d 702, 712 (1999) (unenacted Commission recommendation useful as "opinion of a learned panel"); *Hall v. Hall*, 222 Cal. App. 3d 578, 585, 271 Cal. Rptr. 773, 777 (1990) (Commission staff report most detailed analysis of statute available); *W.E.J. v. Superior Court*, 100 Cal. App. 3d 303, 309-10, 160 Cal. Rptr. 862, 866 (1979) (law review article prepared for Commission provides insight into development of law); *Schonfeld v. City of Vallejo*, 50 Cal. App. 3d 401, 407 n.4, 123 Cal.

Publications

Commission publications are distributed to the Governor, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel.⁵² Commission materials are also distributed to interest groups, lawyers, law professors, courts, district attorneys, law libraries, and other individuals requesting materials.

The Commission's reports, recommendations, and studies are published in hardcover volumes that serve as a permanent record of the Commission's work and, it is believed, are a valuable contribution to the legal literature of California. These volumes are available at many county law libraries and at some other libraries. About half of the hardcover volumes are out of print, but others are available for purchase.⁵³ Publications that are out of print are available as electronic files.⁵⁴

Electronic Publication and Internet Access

Since 1995, the Commission has provided a variety of information on the Internet, including online material and downloadable files.⁵⁵ Interested persons with Internet access can find the current agenda, meeting minutes, background studies, tentative and final recommendations, staff memoranda, and general background information.

Since 2002, all Commission publications and staff memoranda are available as electronic files. Recent publications and memoranda may be downloaded from the Commission's website. Files that are not on the website are available on request.⁵⁶

Rptr. 669, 673 n.4 (1975) (court indebted to many studies of Commission for analytical materials).

52. See Gov't Code § 8291. For limitations on Section 8291, see Gov't Code §§ 9795, 11094-11099.

53. See *Commission Publications*, Appendix 7 *infra*.

54. See "Electronic Publication and Internet Access" *infra*.

55. The URL for the Commission's website is <<http://www.clrc.ca.gov>>.

56. See *Commission Publications*, Appendix 7 *infra*.

Electronic Mail

Email commenting on Commission proposals or suggesting issues for study is given the same consideration as letter correspondence, if the email message includes the name and regular mailing address of the sender. Email to the Commission may be sent to *commission@clrc.ca.gov*.

The Commission distributes the majority of its meeting agendas, staff memoranda, and other written materials electronically, by means of its website and email distribution lists. The Commission encourages use of email as an inexpensive and expedient means of communication with the Commission.

MCLE Credit

The Commission is approved by the State Bar of California as a minimum continuing legal education provider. Participants and attendees at Commission meetings may be eligible to receive MCLE credit. To receive credit for participation or attendance at a meeting, a person must register at the meeting. Meeting materials are available free of charge on the Internet⁵⁷ or may be purchased in advance from the Commission.

Personnel of Commission⁵⁸

As of December 13, 2013, the following persons were members of the Law Revision Commission:

Legislative Members⁵⁹

Assembly Member Roger Dickinson, Sacramento
Senator Ted Lieu, Torrance

57. See “Electronic Publication and Internet Access” *supra*.

58. See also *Biographies of Current Commissioners*, Appendix 6 *infra*.

59. The Senate and Assembly members of the Commission serve at the pleasure of their respective appointing powers, the Senate Committee on Rules and the Speaker of the Assembly. Gov’t Code § 8281.

Members Appointed by Governor⁶⁰	<i>Term Expires</i>
Damian Capozzola, Hermosa Beach <i>Chairperson</i>	October 1, ____
Victor King, La Crescenta <i>Vice Chairperson</i>	October 1, 2015
Xochitl Carrion, San Francisco	October 1, 2015
Judge Patricia Cowett (ret.), San Diego	October 1, 2015
Taras Kihiczak, Pacific Palisades	October 1, ____
Susan Duncan Lee, San Francisco	October 1, 2015
Crystal Miller-O'Brien, Los Angeles	October 1, ____
Legislative Counsel⁶¹	
Diane F. Boyer-Vine, Sacramento	

60. Seven Commission members are appointed by the Governor with the advice and consent of the Senate. Gov't Code § 8281. These Commissioners serve staggered four-year terms. *Id.* The provision in Government Code Section 8281 to the effect that Commission members appointed by the Governor hold office until the appointment and qualification of their successors has been superseded by the rule in Government Code Section 1774 declaring a vacancy if there is no reappointment 60 days following expiration of the term of office. See also Gov't Code § 1774.7 (Section 1774 overrides contrary special rules unless specifically excepted).

61. The Legislative Counsel serves on the Commission by virtue of office. Gov't Code § 8281.

The following persons are on the Commission's staff:

Legal

BRIAN HEBERT
Executive Director

BARBARA S. GAAL
Chief Deputy Counsel

KRISTIN BURFORD
Staff Counsel

STEVE COHEN
Staff Counsel

Administrative-Secretarial

DEBORA LARRABEE
*Associate Governmental
Program Analyst*

VICTORIA V. MATIAS
Secretary

Alexander Rich, Amanda Smith, and Justin Lee, all students at the University of California, Davis, School of Law, also worked for the Commission during 2013.

Commission Budget

The Commission's operations for the 2013-14 fiscal year have been funded through a reimbursement from the California Office of Legislative Counsel, in the amount of \$681,000.

That reimbursement is supplemented by \$15,000 budgeted for income generated from the sale of documents to the public, to recover the cost of the documents.

The Commission also receives substantial donations of necessary library materials from the legal publishing community, especially California Continuing Education of the Bar, LexisNexis, and Thomson Reuters. In addition, the Commission receives benchbooks from the California Center for Judicial Education and Research (CJER). The Commission receives additional library materials from other legal publishers and from other law reform agencies on an exchange basis, and has full access to the law libraries at the University of California, Davis, School of Law and

at Stanford Law School. The Commission is grateful for these contributions.

Other Activities

The Commission is directed by statute to cooperate with bar associations and other learned, professional, or scientific associations, institutions, or foundations in any manner suitable for the fulfillment of the purposes of the Commission.⁶²

National Conference of Commissioners on Uniform State Laws

The Commission is directed by statute to receive and consider proposed changes in the law recommended by the National Conference of Commissioners on Uniform State Laws.⁶³ Legislative Counsel and Commission member Diane F. Boyer-Vine is a member of the California Commission on Uniform State Laws and the National Conference. The Commission's Executive Director, Brian Hebert, is an associate member of the National Conference.

Other Staff Activities

On April 16, 2013, the Executive Director spoke about the Commission's work on common interest development law to the California Association of Community Managers.

Legislative History of Recommendations in the 2013 Legislative Session

In 2013, bills to effectuate five Commission recommendations and part of a sixth were introduced. All of the proposals were enacted, in whole or substantial part.

62. Gov't Code § 8296.

63. Gov't Code § 8289.

Nonsubstantive Reorganization Of Deadly Weapon Statutes (Clean-Up Legislation)

Assembly Bill 383 (2013 Cal. Stat. ch. 76) was introduced in 2013 by Assembly Member Donald Wagner. The bill effectuated parts of the Commission's recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation*, 41 Cal. L. Revision Comm'n Reports 135 (2011).

The measure was enacted.

Third Decennial Review of Exemptions from Enforcement of Money Judgments

Assembly Bill 567 (2013 Cal. Stat. ch. 15) was introduced in 2013 by Assembly Member Donald Wagner to effectuate the Commission's recommendation on *Third Decennial Review of Exemptions from Enforcement of Money Judgments*, 42 Cal. L. Revision Comm'n Reports 297 (2012).

The measure was enacted.

Statutory Clarification and Simplification of CID Law (Clean-Up Legislation)

Senate Bill 745 (2013 Cal. Stat. ch. 183) was introduced in 2013 by the Senate Committee on Transportation and Housing to effectuate the Commission's recommendations on *Statutory Clarification and Simplification of CID Law: Clean-Up Legislation*, 42 Cal. L. Revision Comm'n Reports 311 (2012) and *Statutory Clarification and Simplification of CID Law: Further Clean-Up Legislation*, 43 Cal. L. Revision Comm'n Reports 23 (2013).

The measure was enacted, with amendments. See *Report of the California Law Revision Commission on Chapter 605 of the Statutes of 2013 (Senate Bill 752)*, 43 Cal. L. Revision Comm'n Reports ___ (2013) (Appendix 4, *infra*).

Commercial and Industrial Developments

Senate Bill 752 (2013 Cal. Stat. ch. 605) was introduced in 2013 by Senator Richard Roth to effectuate the Commission's recommendations on *Commercial and Industrial Common Interest*

Developments, 42 Cal. L. Revision Comm'n Reports 1 (2012) and *Commercial and Industrial Subdivisions*, 43 Cal. L. Revision Comm'n Reports 1 (2013).

The measure was enacted, with amendments. See *Report of the California Law Revision Commission on Chapter 605 of the Statutes of 2013 (Senate Bill 752)*, 43 Cal. L. Revision Comm'n Reports ___ (2013) (Appendix 5, *infra*).

Report on Statutes Repealed by Implication or Held Unconstitutional

Government Code Section 8290 provides:

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.

Pursuant to this directive, the Commission has reviewed the decisions of the United States Supreme Court and the California Supreme Court published since the Commission's last Annual Report was prepared⁶⁴ and has the following to report:

- No decision holding a state statute repealed by implication has been found.
- No decision of the United States Supreme Court holding a state statute unconstitutional has been found.⁶⁵
- No decision of the California Supreme Court holding a state statute unconstitutional have been found.

64. This study has been carried through opinions published on or before November 12, 2013.

65. In *Hollingsworth v. Perry*, ___ U.S. ___, 133 S. Ct. 2652, 186 L. Ed. 2d 768 (2013), the United States Supreme Court left intact the holding of a federal district court declaring Article I, Section 7.5 of the California Constitution unconstitutional under the Due Process and Equal Protection clauses of the 14th Amendment of the United States Constitution, ruling that the proponents of the initiative adding the provision to the California Constitution had no standing under Article III, Section 2 of the United States Constitution to appeal the district court decision.

Recommendations

The Commission respectfully recommends that the Legislature authorize the Commission to continue its study of the topics previously authorized.⁶⁶

66. See discussion under “Calendar of Topics for Study” *supra*; *Calendar of Topics Authorized for Study*, Appendix 2 *infra*.

