

Second Supplement to Memorandum 2020-19

Pandemic Response: Possible Actions

Memorandum 2020-19 and its First Supplement¹ discuss the possibility of the Commission devoting part of its resources to working on statutory reforms to address pandemic-related problems.

This Supplement provides new information relevant to that topic.

It also presents a letter from the Fish and Game Commission, discussing the effect of the pandemic on its involvement in the Commission's study of the Fish and Game Code. That topic is only indirectly related to the main thrust of Memorandum 2020-19, but it needs to be discussed at the May meeting, and this is the most relevant context for that discussion.

NEW INFORMATION ON POSSIBLE PANDEMIC RESPONSE ACTIONS

The staff has learned of two facts relevant to matters discussed in Memorandum 2020-19. They are noted below.

Work of the Uniform Law Commission

Commissioner Boyer-Vine, who is also a member of California's delegation to the Uniform Law Commission, alerted the staff that the ULC is also considering devoting part of its resources to pandemic-related law reforms.

She shared an email from ULC President Carl Lisman, which stated in part:

In recent weeks, many of us have been thinking about what role the ULC might play to address the legal issues relating to the current and future epidemics and pandemics. We've received suggestions from commissioners and others, and some of our committees have started considering these issues.

To accelerate our normal process of considering these suggestions, the Executive Committee has decided to create three

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.

new study committees that will examine three clusters of possible projects. Diane Boyer-Vine will chair a study committee on public health emergency authorities, addressing topics such as quarantines, business closures, collective purchasing mechanisms, and rules for medical practice. Mike Houghton will chair a study committee on mitigation of public health emergency business disruptions, addressing topics such as non-liquidating receiverships, business interruption insurance, and the application of force majeure and impossibility doctrines. Ray Pepe will chair a study committee on state governance during public health emergencies, addressing topics such as temporary suspension of laws through executive action and the use of remote meetings.

We are asking these new committees to report to the Scope & Program Committee by July 7 as to whether uniform acts in any of these areas would be merited. Although we hope that this current crisis will end far sooner than we can complete our study and drafting efforts, we strongly believe that the ULC should, at the very least, help our legal system prepare for the next crisis.

Those steps taken by the ULC reinforce the idea that action in this area, by dedicated law reform bodies, makes sense. In particular, the staff agrees that it would be helpful to have disaster-related reforms in place for whatever future calamities may arise. That would allow the state to benefit from the lessons learned in the current crisis, so that they do not need to be relearned again in the future.

If the Commission decides to proceed with pandemic-related reforms, the staff will follow the comparable work of the ULC and will look to it as a source of good ideas.

Notarization Bill

Senate Bill 1322 (Rubio) was amended on April 4, 2020 to enable remote notarization during the current pandemic. The bill begins with the following statement of legislative findings and declarations:

(a) Notarization is a key part of the real estate transaction process. Through notarization, a notary verifies the identity of a signer of a document.

(b) Since 2011, 23 states have enacted remote online notarization legislation that allows for closing documents to be notarized without requiring all individuals to be physically present in the same room.

(c) Remote notarization is an established process that can allow the notarization of essential documents, including loan and real estate transfer paperwork, to occur while promoting physical distancing during the COVID-19 outbreak.

Substantively, the bill would allow a notary public to “apply for registration with the Secretary of State to be a remote online notary public” and would require the Secretary of State to adopt rules to implement the new law. The new law would only remain in effect “while there is a declaration of a state of emergency by the Governor related to the COVID-19 virus in effect.”

The staff will monitor the progress of that bill.

More generally, if the Commission decides to work on pandemic-related reforms, it should give some thought to how to conduct that work in a way that would support rather than undermine similar efforts by others.

FISH AND GAME COMMISSION

The Commission has received a letter from Melissa Miller-Henson, requesting a 90-day extension to the deadline for the first round of comment on the Commission’s tentative recommendation proposing a recodified Fish and Wildlife Code. That letter is attached as an Exhibit.

Given the shift in priorities and drain in resources affecting every agency during the current health crisis, the staff sees no good reason to insist on maintaining the timeline that been set before that crisis. **The staff recommends that the deadline be extended.**

Respectfully submitted,

Brian Hebert
Executive Director

**STATE OF CALIFORNIA
FISH AND GAME COMMISSION
MEMORANDUM**

DATE: May 13, 2020

TO: Victor King, Chairperson
Brian Hebert, Executive Director
California Law Revision Commission
Sent via email to Commission@clrc.ca.gov and BHebert@clrc.ca.gov

FROM: Melissa Miller-Henson, Executive Director

SUBJECT: Request for extension of July 1, 2020 deadline to submit comments on the commission's Study R-100

The California Fish and Game Commission (FGC) has been tracking the California Law Revision Commission's Study R-100, which evaluates California's fish and game laws. FGC authorized its staff to submit comments to your commission in response to the request for comments on the notes included in the tentative recommendation for a proposed new California Fish and Wildlife Code.

Over the last year, FGC has experienced an exceptionally high amount of staff vacancies, beginning with the departure of our previous executive director that led to a domino effect in staff movement. Coupled with the current COVID-19 pandemic, the situation resulted in staff suspending most work on long-term projects, such as reviewing and providing comments on the notes included in the proposed legislation.

You have requested comments on the notes by July 1, 2020. However, under the circumstances, FGC requests a 90-day extension of the deadline to allow staff to complete its review and provide comment to your commission no later than October 1, 2020.

Thank you in advance for considering this request.

ec: Charlton Bonham, Director, California Department of Fish and Wildlife,
Director@wildlife.ca.gov

Wendy Bogdan, General Counsel, California Department of Fish and
Wildlife, Wendy.Bogdan@wildlife.ca.gov