

Admin.

June 8, 2020

Memorandum 2020-22

Minutes of Meeting on May 21, 2020 (Draft)

The California Law Revision Commission¹ held a meeting on May 21, 2020, by teleconference. A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

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.

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DRAFT MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
MAY 21, 2020

A meeting of the California Law Revision Commission was held on May 21, 2020. Consistent with Executive Orders N-25-20 and N-29-20, the meeting was held as an online video webinar.

Only those members of the public who identified themselves in statements to the Commission are listed as attendees. Other members of the public who attended without identifying themselves are not listed.

Commission:

- Present:* Victor King, Chairperson
Crystal Miller-O'Brien, Vice-Chairperson
Diane Boyer-Vine, Legislative Counsel
Assembly Member Ed Chau
David A. Carrillo
Ana Cubas
Jane McAllister
Richard Rubin
Richard Simpson

- Absent:* Senator Richard D. Roth

Staff:

- Present:* Brian Hebert, Executive Director
Barbara Gaal, Chief Deputy Counsel
Kristin Burford, Staff Counsel
Steve Cohen, Staff Counsel

Other Persons:

- John Andersen, Executive Committee, Trusts and Estates Section, California Lawyers Association
Rick Brausch, Department of Toxic Substances Control
Chris Conley, American Civil Liberties Union of Northern California
Ron Kelly
Marjorie Murray
Nathaniel Sterling

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APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

MINUTES

The Commission considered Memorandum 2020-9 and its First Supplement, presenting draft Minutes for the January 30, 2020, meeting.

The Commission approved the Minutes with the changes proposed in the First Supplement.

(Commissioners Boyer-Vine and Rubin abstained.)

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director briefed the Commission on the May Revise of the Governor’s Budget for 2020-21.

1 **Commissioner Suggestions**

2 No suggestions were made. But see “Pandemic Response: Possible Action”
3 *infra*.

4 **Handbook of Practices and Procedures**

5 The Commission considered Memorandum 2020-10, proposing an addition to
6 the Commission’s *Handbook of Practices and Procedures*. The Commission
7 approved the addition.

8 *(Commissioners Boyer-Vine and Chau were not present for this decision.)*

9 **Pandemic Response: Possible Action**

10 The Commission considered Memorandum 2020-19 and its First and Second
11 supplements, discussing the possibility of the Commission using its resources to
12 develop and recommend reforms aimed at addressing the present emergency.

13 The Commission made the following decisions:

- 14 • The Commission will dedicate part of its resources to emergency-
15 related reforms.
- 16 • The staff will contact the Legislature to ask about the usefulness of
17 a proposal to temporarily extend statutory sunset dates.
- 18 • In general, the Commission will not work on an emergency-related
19 topic without some guidance from the Legislature on the
20 usefulness of the work.
- 21 • At the next meeting, the Commission will consider the possibility
22 of requesting a narrow expansion of its authority, to include
23 emergency-related reforms in areas that it is currently authorized
24 to study or was previously authorized to study.

25 *(Commissioner Chau was not present for these decisions. Commissioner Rubin voted no.)*

26 On a related matter, the Commission decided to extend both of the deadlines
27 for public comment on its tentative recommendations on Fish and Game Law.
28 Comments on the Commission “Notes” will now be due on January 1, 2021.
29 Comments on the proposed reorganization will be due on January 1, 2022.

30 *(Commissioner Chau was not present for this decision.)*

31 **Meeting Schedule**

32 The Commission considered Memorandum 2020-21, discussing the
33 Commission’s meeting schedule for the remainder of the year. The Commission
34 decided to abandon its current schedule and replace it with a schedule of shorter
35 meetings held on a roughly monthly basis. This monthly schedule would be

1 revisited if the Commission returns to in-person meetings. The staff will
2 informally canvass Commissioners about availability and propose a schedule.

3 *(Commissioner Chau was not present for this decision. Commissioner Rubin voted*
4 *no.)*

5 2020 LEGISLATIVE PROGRAM

6 The Commission considered Memorandum 2020-11, discussing the
7 Commission's 2020 Legislative Program.

8 This was a purely informational memorandum. No Commission action was
9 required or taken.

10 STUDY E-200 — RECODIFICATION OF TOXIC SUBSTANCE STATUTES

11 The Commission considered Memorandum 2020-13, discussing the
12 recodification of Chapter 6.5 of Division 20 of the Health and Safety Code.

13 The Commission approved a provisional outline for the reorganization of
14 Chapter 6.5, which was attached to the memorandum as Exhibit pages 3-5. The
15 Commission also consented to the drafting practices discussed on pages 3 and 4
16 of the memorandum.

17 *(Commissioner Chau was not present for these decisions.)*

18 STUDY EM-560 — EMINENT DOMAIN: PRE-CONDEMNATION ACTIVITIES

19 The Commission considered Memorandum 2020-12, presenting a draft
20 tentative recommendation on compensation of a property owner for losses
21 caused by pre-condemnation activity.

22 The Commission approved the draft as a tentative recommendation to be
23 circulated for public comment, with the following changes:

- 24 • The first sentence of the second paragraph of the Commission
25 Comment on Code of Civil Procedure Section 1250.320 was revised
26 to read: "Subdivision (d) is added to provide that any claim for
27 loss caused by the plaintiff's unreasonable conduct prior to
28 commencing the eminent domain proceeding must be included in
29 the defendant's answer."
- 30 • The first paragraph of the Commission Comment on Code of Civil
31 Procedure Section 1260.230 was revised to refer to "subdivision (d)
32 of Section 1260.230."
- 33 • The deadline for public comment was changed to August 13, 2020.

1 (Commissioner Chau was not present for these decisions.)

2 STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION
3 FROM COMMUNICATION SERVICE PROVIDERS

4 The Commission considered Memorandum 2020-20, discussing reactivation
5 of the Commission’s study of government access to customer information from
6 communication service providers. No decisions were made. Work on the study
7 will continue at a future meeting.

8 STUDY J-1405.4 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING
9 (PART 6): REGIONAL JUSTICE FACILITIES ACTS

10 The Commission considered Memorandum 2020-14, which presents and
11 analyzes the comments on the discussion draft on *Trial Court Restructuring Clean-*
12 *Up: Regional Justice Facilities Acts* (Jan. 2020). The Commission directed the staff to
13 prepare a tentative recommendation that proposes to repeal the San Joaquin
14 County Regional Justice Facility Financing Act (Gov’t Code §§ 26290-26293.4),
15 the Orange County Regional Justice Facilities Act (Gov’t Code §§ 26295-
16 26298.58), and the County Regional Justice Facilities Financing Act (Gov’t Code
17 §§ 26299-26299.083) as obsolete. The tentative recommendation should address
18 Humboldt County the same way as the other counties affected by these acts.

19 (Commissioner Chau was not present for these decisions.)

20 STUDY J-1406 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING
21 (PART 7): COURT REPORTER COMPENSATION STATUTES

22 The Commission considered Memorandum 2020-15, which provides
23 historical background on California’s court reporter compensation statutes. No
24 Commission action was required or taken.

25 STUDY L-3032.5 — STOCK COOPERATIVES AND THE
26 UNIFORM TOD SECURITY REGISTRATION ACT

27 The Commission considered Memorandum 2020-16, discussing adaptation of
28 the Uniform TOD Security Registration Act (Probate Code Sections 5500-5512) to
29 allow a nonprobate transfer of an owner’s interest in a stock cooperative.

1 In considering how to adapt the Uniform Act for application to stock
2 cooperatives, the Commission decided against making any change to the
3 substance of Penal Code Section 5508(a) (participation by registering entity is
4 voluntary) or (c) (limitation of liability of registering entity).

5 (*Commissioner Chau was not present for these decisions.*)

6 STUDY L-4100 — NONPROBATE TRANSFERS: CREDITOR CLAIMS
7 AND FAMILY PROTECTION

8 The Commission considered Memorandum 2020-17, discussing the possible
9 application of probate family protections to nonprobate transfers.

10 The Commission deferred consideration of the decisions presented in the
11 memorandum and directed the staff to seek comment from stakeholder groups
12 on the need for and practical consequences of extending the application of
13 probate family protections to nonprobate transfers.

14 (*Commissioner Chau was not present for these decisions.*)

15 STUDY L-4130.3 — DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

16 The Commission considered Memorandum 2020-18, presenting a staff draft
17 of a recommendation on *Disposition of Estate Without Administration: Liability*. The
18 Commission approved the draft as a final recommendation.

19 (*Commissioner Chau was not present for this decision.*)

APPROVED AS SUBMITTED

Date

APPROVED AS CORRECTED
(for corrections, see Minutes of next meeting)

Chairperson

Executive Director