

## Memorandum 2020-34

**Emergency-Related Reforms: Commission Authority**

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At its July meeting, the Commission<sup>1</sup> decided that it would revisit the question of whether to request expanded authority to study emergency-related reforms. Commissioners could provide suggestions to the staff informally. Those suggestions would be taken into account in preparing a new memorandum discussing the available options.<sup>2</sup> This is that memorandum.

## COMMISSIONER SUGGESTIONS

The staff received suggestions from Commissioners Carrillo, McAllister, Rubin, and Simpson. Their suggestions are presented below.

**List Proposed in Memorandum 2020-25**

In Memorandum 2020-25, the staff presented a list of topics that had previously been authorized for Commission study. From that list, the staff identified five topics that might be relevant to emergency-related law reform:

- Government liability.
- Inverse condemnation.
- Nonprofit corporations.
- Administrative law.
- Tolling the statute of limitations.

Commissioner Simpson agrees with the staff's assessment that those might be appropriate topics to study.

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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](http://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.

2. Minutes (July 2020), p. 6.

## **Open Meeting Laws**

As discussed in other materials, the Governor has issued executive orders to waive parts of the state and local agency open meeting laws, in order to facilitate the conduct of public meetings entirely by teleconference. Commissioner Carrillo suggests the possibility of revising the statutes to similar effect.

## **Habeus Corpus and Bail**

Commissioner McAllister expressed interest in the possibility of studying Habeus Corpus and bail. In particular, she is concerned about the adequacy of an incarcerated person's access to counsel during the pandemic.

## **Employment Matters**

Commissioner Rubin writes:

Since this "emergency" is likely to persist for an indefinite period with no effective remedies in immediate sight that will result in continuous and significant long-term business and employment disruptions the legislature should want to enact laws that ensure protections for both employers and employees for the duration of this emergency and future emergencies.

One immediate consequence will be the resistance of many employees to return to work when their physical attendance is required if they cannot be assured that the necessary protections are in place.

This will have to be balanced against the highly detrimental if not catastrophic impacts on businesses which will not be able to resume full operations or may have to close.<sup>3</sup>

### **NEXT STEP**

To aid consideration of those suggestions, the staff intends to survey pending legislation to see the extent to which those matters are already being addressed. The results of that survey will be reported in a supplement to this memorandum.

Respectfully submitted,

Brian Hebert  
Executive Director

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3. Email from Richard Rubin to Brian Hebert (July 21, 2020) (on file).