

Admin.

November 30, 2020

## Memorandum 2020-65

**Minutes of Meeting on November 19, 2020 (Draft)**

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The California Law Revision Commission held a meeting on November 19, 2020, by teleconference.<sup>1</sup> 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.

The Bagley-Keene Open Meeting Act provides that attendees cannot be required to identify themselves.<sup>2</sup> As a means of observing that rule, the Commission is only listing attendees who have affirmatively consented to being identified in the Minutes, as part of the registration process required for those who wish to attend the meeting.

Respectfully submitted,

Brian Hebert  
Executive Director

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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. Gov't Code § 11124.



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**DRAFT MINUTES OF MEETING**  
**CALIFORNIA LAW REVISION COMMISSION**  
**November 19, 2020**

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A meeting of the California Law Revision Commission was held on November 19, 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 expressly consented to inclusion in the Minutes are listed as attendees.

**Commission:**

*Present:* Crystal Miller-O'Brien, Chairperson  
Richard Simpson, Vice-Chairperson  
David A. Carrillo  
Ana Cubas  
Victor King  
Jane McAllister  
Richard Rubin

*Absent:* Assembly Member Ed Chau  
Senator Richard D. Roth

**Staff:** Brian Hebert, Executive Director  
Barbara Gaal, Chief Deputy Director  
Kristin Burford, Staff Counsel

**Other Persons:**

Michael Amster  
Linda Brown  
Louie Brown  
Debbie Cochrane, The Institute for College Access and Success (TICAS)  
Alex Graves, Association of Independent California Colleges and Universities (AICCU)  
Elaine Roberts-Musser  
Catalina Sanchez  
Tom Vu, Association of Independent California Colleges and Universities

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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 2020-57, presenting draft Minutes for the October 15, 2020, meeting.

The Commission approved the Minutes, without change.

## ADMINISTRATIVE MATTERS

### **Report of Executive Director**

The Executive Director had nothing significant to report.

### **Commissioner Suggestions**

No suggestions were made.

### **Meeting Schedule**

The Commission considered Memorandum 2020-58, which discussed the Commission’s meeting schedule for 2021.

The Commission approved the following meeting dates:

1 Thursday, January 21, 2021  
2 Thursday, February 25, 2021  
3 Friday, March 26, 2021  
4 Thursday, April 22, 2021  
5 Friday, May 21, 2021  
6 Thursday, June 24, 2021  
7 Thursday, July 22, 2021  
8 Thursday, August 26, 2021  
9 Thursday, September 23, 2021  
10 Friday, October 22, 2021  
11 Thursday, November 18, 2021  
12 Thursday, December 16, 2021

13 In future years, the staff will informally canvass Commission members about  
14 their availability, before preparing a proposed meeting schedule.

### 15 **New Topics and Priorities**

16 The Commission considered Memorandum 2020-59, which discusses the  
17 Commission's scope of authority, the process of obtaining additional authority,  
18 and related matters. The memorandum was informational. No Commission  
19 action was required or taken.

20 The Commission also considered Memorandum 2020-60 and its First  
21 Supplement which presented the question of whether the Commission should  
22 request authority to study interstate reciprocity for higher education distance  
23 learning. The Commission will do so, using the language set out on page 2 of  
24 Memorandum 2020-60.

### 25 **STUDY E-200 – RECODIFICATION OF TOXIC SUBSTANCE STATUTES**

26 The Commission considered Memorandum 2020-62 and its first Supplement,  
27 discussing the Commission's tentative recommendation.

28 The Commission made the following decisions:

- 29 • The list of issues for possible future study will be expanded to  
30 include issues that were discussed in Notes in the tentative  
31 recommendation, but could not be resolved in this study (see, e.g.,  
32 Exhibit, pp. 1-4). The listed issues will not be limited to those that  
33 are appropriate for future work by the Commission.
- 34 • The staff will present revised language for proposed Health and  
35 Safety Code Section 68200 that is more consistent with the Director  
36 of Finance's role in the state budget process.

- 1 • Proposed Health and Safety Code Section 68020 will not be  
2 changed. (*Commissioner Rubin was not present when this decision was*  
3 *made.*)
- 4 • Proposed Health and Safety Code Section 68105 will be revised as  
5 presented on page 14 of Memorandum 2020-62. (*Commissioner*  
6 *Rubin was not present when this decision was made.*)
- 7 • The question of whether proposed Section Health and Safety Code  
8 68210 should be adjusted to reflect current conditions will be  
9 included on the list of issues for possible future study.  
10 (*Commissioner Rubin was not present when this decision was made.*)
- 11 • With the exception of proposed Health and Safety Code Section  
12 68200 (discussed above), the Commission approved the staff's  
13 recommendations on all of the proposed consent items.  
14 (*Commissioner Rubin was not present when this decision was made.*)
- 15 • The recommendation will recodify Health and Safety Code Section  
16 25359.20 as a single section, with only minimal, necessary changes  
17 to its language. The question of whether this provision should be  
18 amended to reflect the decision in *Boeing Co. v. Movassaghi*, 768  
19 F.3d 832 (2014), will be included on the list of issues for possible  
20 future study. (*Commissioner Rubin was not present when this decision*  
21 *was made.*)

22 STUDY J-1407 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING  
23 (PART 8): JUDICIAL BENEFITS

24 The Commission considered Memorandum 2020-59, on revising some  
25 statutes relating to judicial benefits to remove material made obsolete by trial  
26 court restructuring. For purposes of a tentative recommendation, the  
27 Commission made the following decisions:

- 28 • Articles 9, 16, 20, 25, and 30 of Chapter 10 of Title 8 of the  
29 Government Code should be revised to include a sunset provision,  
30 which would repeal the article in fifty years, subject to a savings  
31 clause as shown on page 13 of Memorandum 2020-59.  
32 (*Commissioner Miller-O'Brien voted against this decision; Commissioner*  
33 *Rubin was not present when the decision was made.*) The  
34 accompanying Comment for each article should expressly state  
35 that the savings clause applies to the repeal pursuant to the sunset  
36 provision. (*Commissioner Rubin was not present when the decision was*  
37 *made.*)
- 38 • Government Code Section 77210 should be revised to include a  
39 sunset provision, which would repeal the section in fifty years,  
40 subject to a savings clause as shown on page 13 of Memorandum  
41 2020-59. The accompanying Comment should expressly state that  
42 the savings clause applies to the repeal pursuant to the sunset

1 provision. (*Commissioners Carrillo and Rubin were not present when*  
2 *the decision was made.*)

- 3 • The tentative recommendation should not propose any revisions  
4 to Government Code Sections 69907 or 69909. (*Commissioner Rubin*  
5 *was not present when this decision was made.*)
- 6 • Government Code Section 69893.7 contains material relating to  
7 court reporter compensation, which is not ripe for cleanup (see  
8 Minutes (Aug. 2020), p. 3). The Commission will wait to deal with  
9 the section comprehensively when it is ready to consider the court  
10 reporter compensation issues. (*Commissioner Rubin was not present*  
11 *when this decision was made.*)

12 STUDY L-3032.5 — STOCK COOPERATIVES AND THE  
13 UNIFORM TOD SECURITY REGISTRATION ACT

14 The Commission considered Memorandum 2020-61, which discusses the  
15 development of a statute to allow for the nonprobate transfer of an owner's  
16 interest in a stock cooperative. The Commission approved all of the staff  
17 recommendations made in the memorandum.

18 STUDY X-100 — EMERGENCY-RELATED REFORMS

19 The Commission considered Memorandum 2020-64 and its First Supplement,  
20 presenting a draft recommendation on the use of teleconferencing in common  
21 interest development meetings during an emergency.

22 The Commission approved the draft as a final recommendation, with one  
23 change. The following provision was added to the proposed law:

24 **Civ. Code § 4090 (amended). Board meeting**

25 4090. "Board meeting" means either of the following:

26 (a) A congregation, at the same time and place, of a sufficient  
27 number of directors to establish a quorum of the board, to hear,  
28 discuss, or deliberate upon any item of business that is within the  
29 authority of the board.

30 (b) A teleconference, where a sufficient number of directors to  
31 establish a quorum of the board, in different locations, are  
32 connected by electronic means, through audio or video, or both. A  
33 teleconference meeting shall be conducted in a manner that  
34 protects the rights of members of the association and otherwise  
35 complies with the requirements of this act. Except for a meeting  
36 that will be held solely in executive session or conducted under  
37 Section 5450, the notice of the teleconference meeting shall identify  
38 at least one physical location so that members of the association  
39 may attend, and at least one director or a person designated by the

1 board shall be present at that location. Participation by directors in  
2 a teleconference meeting constitutes presence at that meeting as  
3 long as all directors participating are able to hear one another, as  
4 well as members of the association speaking on matters before the  
5 board.

6 After legislation to implement the recommendation has been considered by  
7 the Legislature, the Commission will revisit two related issues:

8 (1) Should a provision similar to proposed Section 5450 apply to an  
9 association that does not have meeting space within its common  
10 area?

11 (2) Should the substance of Section 4090(b) be relocated to place it  
12 within the article that governs board meetings?

13 *(Commissioner Rubin was not present when those decisions were made.)*

☐ APPROVED AS SUBMITTED

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Chairperson

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Executive Director