

Admin.

September 29, 2022

Memorandum 2022-48

Minutes of Meeting on September 22, 2022 (Draft)

The California Law Revision Commission held a meeting on September 22, 2022, by teleconference.¹ 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.² As a means of observing that rule, the Commission is only listing teleconference 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

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.

2. Gov't Code § 11124.

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DRAFT MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
September 22, 2022

A meeting of the California Law Revision Commission was held on September 22, 2022. The meeting was held as an online video webinar. Members of the public are only identified in the Minutes as attendees if they expressly consented to being identified.

Commission:

Present: David A. Carrillo, Chairperson
Amb. (r.) David Huebner, Vice-Chairperson
Xochitl Carrion
Cara Jenkins, Legislative Counsel
Victor King
Jane McAllister
Richard Simpson

Absent: Assembly Member Ash Kalra
Senator Richard D. Roth
Ana Cubas

Staff: Brian Hebert, Executive Director
Kristin Burford, Staff Counsel
Steve Cohen, Staff Counsel

Other Persons:

Elaine Roberts Musser
Michael Acton
Kathy Spillar, Feminist Majority

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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.

CLOSED SESSION

The Commission met in closed session, to consider a personnel matter, pursuant to Government Code Section 11126. No final decisions were made.

Commissioner Xochitl Carrion recused herself from the closed session, declaring that the subject matter of the closed session could affect a source of income to her.

MINUTES

The Commission considered Memorandum 2022-41, presenting draft Minutes of the August 18, 2022, meeting. The Commission approved the Minutes without change.

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director reported that proposed changes to the Commission’s staffing structure have been delayed.

1 **New Topics and Priorities**

2 The Commission considered Memorandum 2022-42, discussing the
3 Commission’s work priorities for 2023. The Commission approved the priorities
4 set out on page 7 of that memorandum. Specifically, the Commission’s priorities
5 for 2023 will be:

- 6 (1) Complete work on active studies.
- 7 (2) Begin work on the newly assigned studies of antitrust law and the
8 Equal Rights Amendment.
- 9 (3) Reactivate work on reorganization and clean-up of specified
10 hazardous material statutes.
- 11 (4) Begin work on the newly assigned study of landlord-tenant
12 terminology. Work on this topic may be deferred until later in 2023
13 or until 2024.

14 With respect to the new studies of antitrust law and the Equal Rights
15 Amendment, the Commission decided that the staff should start work on those
16 topics by identifying subject matter experts who might be willing to serve as
17 Commission consultants, with the intention of presenting a slate of candidates
18 for Commission consideration at its November 2022 meeting. In addition, the
19 staff should organize expert panel discussions, to be conducted at Commission
20 meetings, for the first half of 2023.

21 Finally, the Commission approved the new organization used in
22 Memorandum 2022-42.

23 In next year’s memorandum on *New Topics and Priorities*, the staff will (1) use
24 a more neutral term to describe Exhibit 2, (2) revise Exhibit 2 to remove all but
25 two of the topics from the list of “Topics that the Commission Might Eventually
26 Start or Restart” (the civil discovery topic suggested by former Commissioner
27 Damian Capozzola and the clean-up of civil venue statues will be retained on the
28 list), and (3) remove all “carry-over” items from the list in Exhibit 3.

29 **Meeting Schedule**

30 The Commission considered 2022-43, discussing the Commission’s meeting
31 schedule for the remainder of 2022 and 2023. The Commission decided against
32 meeting in October 2022. The Commission approved the following meeting
33 schedule for 2023:

1 January 19, 2023, 9:30 a.m. – 12:30 p.m.
2 February 16, 2023, 9:30 a.m. – 12:30 p.m.
3 March 16, 2023, 9:30 a.m. – 12:30 p.m.
4 April 20, 2023, 9:30 a.m. – 12:30 p.m.
5 May 18, 2023, 9:30 a.m. – 12:30 p.m.
6 June 22, 2023, 9:30 a.m. – 12:30 p.m.
7 August 17, 2023, 9:30 a.m. – 3:30 p.m.
8 October 19, 2023, 9:30 a.m. – 3:30 p.m.
9 December 21, 2023, 9:30 a.m. – 3:30 p.m.

10 **Commissioner Suggestions**

11 Chairperson Carrillo suggested that the Commission address a recent
12 decision of the California Supreme Court, involving the definition of the term
13 “fish” in Fish and Game Code Section 45, with respect to its application to the
14 California Endangered Species Act.

15 The Commission decided that its next recommendation on Fish and Game
16 Law will include language along the following lines, with the addition of a brief
17 note about the recent appellate decision on the issue:

18 There is one definition that is likely to be confusing in some
19 situations. The existing definition of “fish,” which applies to the
20 entire Fish and Game Code, includes animals that are not
21 considered fish biologically (i.e., invertebrates and amphibians). It
22 is not clear whether every use of that term is intended to have the
23 defined meaning. Notwithstanding that potential source of
24 confusion, the Commission is not recommending any change to the
25 application of the definition. Making such a change would require
26 a determination of legislative intention in hundreds of sections,
27 which is not practicable in this study.

28 2022 LEGISLATIVE PROGRAM

29 The Commission considered Memorandum 2022-44, discussing the
30 Commission’s 2022 legislative program. No Commission decisions were required
31 or made.

32 STUDY R-100 — FISH AND GAME LAW

33 The Commission considered Memorandum 2022-46, presenting proposed
34 revision of sections of the Fish and Game Code based on public comment. The
35 Commission approved all staff recommendations made in the memorandum.

36 The Commission also considered Memorandum 2022-47. No Commission
37 action was required or taken with regard to that memorandum.

