

Admin.

November 23, 2022

## Memorandum 2023-1

**Minutes of Meeting on November 17, 2022 (Draft)**

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The California Law Revision Commission held a meeting on November 17, 2022, 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 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

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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 17, 2022

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A meeting of the California Law Revision Commission was held on November 17, 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  
Ana Cubas  
Cara Jenkins, Legislative Counsel  
Victor King  
Jane McAllister  
Richard Simpson

*Absent:* Assembly Member Ash Kalra  
Senator Richard D. Roth  
Xochitl Carrion

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

**Other Persons:**

Wendy Bogdan, Department of Fish and Wildlife  
Daniel Bromberg, California Constitution Center  
Michael Burns  
George Cavinta  
Kat DeBurgh  
Amanda DeLaby, Department of Fish and Wildlife  
Pat Garofalo  
Edward Howard  
Cheryl Johnson  
Gurpreet Kaur  
Elaine Roberts Musser  
Tepring Piquado  
Laura Quinonez  
Dan Robbins, Uniform Law Commission  
Jennifer Roe  
Meagan Subers

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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.

MINUTES

The Commission considered Memorandum 2022-48, presenting draft Minutes of the September 22, 2022, meeting. The Commission approved the Minutes without change.

ADMINISTRATIVE MATTERS

**Report of Executive Director**

- The Executive Director reported on the following matters:
- Proposed changes to the Commission’s staffing structure continue to be delayed.
  - There is no need for a meeting in December.

**Commissioner Suggestions**

There were no suggestions from Commissioners.

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2022 LEGISLATIVE PROGRAM

The Commission considered Memorandum 2022-49, discussing the Commission’s 2022 legislative program. The Commission approved the new and revised Comments presented in the memorandum.

*(Commissioner Carrillo was not present when this decision was made.)*

STUDY B-750 — ANTITRUST LAW

The Commission considered Memorandum 2022-50 and its First and Second Supplements, introducing the study of antitrust law.

The Commission decided to address the topic holistically, rather than segmenting it into a series of subtopics for the purposes of making reform recommendations.

*(Commissioners Carrillo and Jenkins were not present when this decision was made.)*

The staff explained how it intends to conduct the staff work for the study. The work will begin with both of the following steps:

- A series of educational sessions will be scheduled, to provide background information on different issue areas. Those sessions will consist of expert presentations, conducted by teleconference. They will either be integrated into already-scheduled Commission meetings or scheduled as separate standalone meetings.
- The staff will form small working groups, consisting of experts on different issues that are relevant to the study. Those working groups will prepare reports for the Commission that summarize the state of the law, perceived problems, and possible reforms. The discussion of reforms will be objective, noting the advantages and disadvantages of possible reforms, without advocating for a particular result. The working groups will include experts with different perspectives on antitrust policy.

STUDY I-100 — EQUAL RIGHTS AMENDMENT

The Commission considered Memorandum 2022-51, introducing the study of the Equal Rights Amendment. The staff explained how it intends to conduct the staff work for the study.

The work will begin by focusing on the possibility of codifying the effect of the Equal Rights Amendment in California law. Once that first stage of work is complete, the Commission will begin a broad search for defects in California law that involve discrimination on the basis of sex. The staff intends to work with a

1 range of experts in conducting the study. In particular, it will be helpful to have  
2 subject matter consultants who are expert in different areas of the law, to assist in  
3 identifying defects that may require reform.

4 No Commission decisions were required or made.

5 STUDY R-100 — FISH AND GAME LAW

6 The Commission considered Memorandum 2022-54 and its First Supplement,  
7 presenting a staff draft recommendation on technical revision of the Fish and  
8 Game Code. The Commission did not approve the draft recommendation,  
9 instead directing the staff to prepare a new draft for consideration at the January  
10 2023 meeting. The new draft will include the proposed revisions recommended  
11 by the staff in the First Supplement to Memorandum 2022-54.

12 *(Commissioners Carrillo, Cubas, and Jenkins were not present when this decision*  
13 *was made.)*

14 STUDY X-100 — EMERGENCY-RELATED REFORMS

15 The Commission considered Memoranda 2022-52 and 2022-53.

16 Memorandum 2022-52 presents a white paper prepared by the California  
17 Constitution Center (“Center”) analyzing constitutional issues related to the  
18 Governor’s powers. Center Senior Fellow Daniel H. Bromberg presented the  
19 white paper and responded to questions.

20 Memorandum 2022-53 analyzes different approaches in emergency laws  
21 related to the termination of a state of emergency.

22 No Commission decisions were required or made.

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