

Admin.

March 23, 2023

Memorandum 2023-18

Minutes of Meeting on March 16, 2023 (Draft)

The California Law Revision Commission held a meeting on March 16, 2023, 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
March 16, 2023

A meeting of the California Law Revision Commission was held on March 16, 2023. 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
Jane McAllister
Richard Simpson

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

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

Invited Speakers: Dean Erwin Chemerinsky, Berkeley Law
Thomas Greene

Other Persons:

Khara Boender
Jenn Brice
Amir Dezfuli
Katie Lindsay, Department of Toxic Substances Control
Nancy Ostrom, Department of Toxic Substances Control
Naomi Padron
Tepring Piquado
Prof. Barak Richman, Duke Law
Tracy Rosenberg

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APPROVAL OF ACTIONS TAKEN

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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.

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MINUTES

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The Commission considered Memorandum 2023-13, presenting draft Minutes of the February 16, 2023, meeting. The Commission approved the Minutes without change.

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(Commissioner Jenkins was not present when this decision was made.)

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ADMINISTRATIVE MATTERS

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Report of Executive Director

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The Executive Director reported that a closed session will be scheduled for the April 2023 meeting, to discuss applications for the position of Executive Director. The staff will confidentially forward the applications to Commissioners before the meeting. Applications that do not meet minimum requirements will not be forwarded.

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Commissioner Suggestions

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There were no suggestions from Commissioners.

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2023 LEGISLATIVE PROGRAM

The Commission considered Memorandum 2023-14 and its First Supplement, discussing the Commission’s 2023 legislative program.

The Commission decided to revise its recommendation on *Stock Cooperatives and Revocable Transfer on Death Deeds* (Feb. 2022) to conform to the proposed amendment discussed in the First Supplement to Memorandum 2023-14.

(Commissioner McAllister was not present when this decision was made.)

STUDY B-750 — ANTITRUST LAW

Thomas Greene made a presentation to the Commission on “Monopoly and Monopsony.”

The Commission also considered Memorandum 2023-16, which provided a status report on the staff’s work on the antitrust study.

No Commission action was required or taken.

STUDY E-200 — RECODIFICATION OF TOXIC SUBSTANCES STATUTES

The Commission considered Memorandum 2023-5, discussing the recodification of toxic substance statutes.

No Commission decisions were required or made.

STUDY I-100 — EQUAL RIGHTS AMENDMENT

The Commission was joined by Dean Erwin Chemerinsky of Berkeley Law. Dean Chemerinsky spoke about the Equal Rights Amendment’s status and legal effects.

The Commission considered Memorandum 2023-17, discussing the scope of “equality of rights under the law” for the purposes of this study. The Commission’s discussion covered a range of topics including:

- Need for an early focus on constitutional provisions and other laws that could be in tension with efforts to advance sex equality (e.g., protections related to religious exercise/expression and California’s Proposition 209).
- Evaluating whether statutes related to sex discrimination appropriately address pregnancy.
- Giving further thought to what the Commission could do to address the non-statutory aspects of California law (judicial

1 decisions, common law) noted in the resolution assigning this
2 topic to the Commission.

- 3 • Importance of inclusive language in this work.
4 • Symbolic value of including a sex equality provision in the law.
5 • Need to provide robust explanations and clear language in
6 situations where the Commission's proposal includes sex- or
7 gender-based distinctions.

8 The First Supplement to Memorandum 2023-17, providing an update on
9 stakeholder outreach, was strictly informational and was not discussed at the
10 meeting.

11 No Commission decisions were required or made.
