A meeting of the California Law Revision Commission was held in Los Angeles on December 17, 2009.

**Commission:**

*Present:* Susan Duncan Lee, Chairperson  
Justice John Zebrowski (ret.), Vice-Chairperson  
Diane Boyer-Vine, Legislative Counsel  
Sidney Greathouse  
Pamela L. Hemminger

*Absent:* Ellen Corbett, Senate Member  
Noreen Evans, Assembly Member  
Ali Jahangiri

**Staff:**  
Brian Hebert, Executive Secretary  
Barbara Gaal, Chief Deputy Counsel  
Catherine Bidart, Staff Counsel  
Steve Cohen, Staff Counsel  
Cindy Dole, Visiting Fellow

**Consultants:** None

**Other Persons:**  
Wendy Bucknum, Community Associations Institute  
Jamie Hackwith, Community Associations Institute  
Dick Pruess, Community Associations Institute
MINUTES OF OCTOBER 22, 2009, COMMISSION MEETING

The Commission approved the Minutes of the October 22, 2009, Commission meeting without change.

ADMINISTRATIVE MATTERS

Report of Executive Secretary

The Executive Secretary reported that the seats held by former Commissioners Frank Kaplan and William Weinberger are now vacant.

Annual Report

The Commission considered Memorandum 2009-47, presenting a staff draft of the Commission’s 2009-2010 Annual Report. The Commission approved the draft for publication with one correction: on page 9 the number of the second footnote will be changed to “2.”

LEGISLATIVE PROGRAM


The Commission considered a number of stakeholder group concerns about SB 189. For each concern, the Commission decided whether it would assent to a proposed revision to address the concern.
The Commission assented to the following changes, which have already been made in the bill:

1. Reorganization of the proposed law to place private work provisions and public work provisions in consecutive titles within the same part of the Civil Code.
2. Revision of proposed Civil Code Sections 8012, 8204, and 9004 to add landscape architects to provisions relating to architects and other “design professionals.”
3. Revision of proposed Civil Code Sections 8118 and 9116 to authorize use of a United States Postal Service tracking record to establish proof of notice.
4. Revision of proposed Civil Code Sections 8144 and 9156 to change the term “beneficiary” to “claimant.”
5. Revision of proposed Civil Code Sections 8170 and 8172 to standardize statutory form language.
6. Revision of proposed Civil Code Section 8308, providing for enforcement of a design professionals lien, to better conform to existing law and to correct a typographical error.
7. Revision of proposed Civil Code Section 8490(d) to delete a 20-day hold period on the effectiveness of a court order releasing a recorded lien claim.
8. Revision of proposed Civil Code Section 8558(b)(2) to correct a drafting error.
9. Revision of the operative date provisions in the proposed law to provide for an operative date of January 1, 2012.

STUDY G-200 — CHARTER SCHOOLS AND THE GOVERNMENT CLAIMS ACT

The Commission considered Memorandum 2009-52, introducing the study of the legal and policy implications of treating charter schools as public entities for purposes of the Government Claims Act. The Commission approved the study methodology proposed in the memorandum.

STUDY H-855 — STATUTORY CLARIFICATION AND SIMPLIFICATION OF CID LAW

The Commission considered Memorandum 2009-53, presenting a revised staff draft of proposed legislation for inclusion in a tentative recommendation on Statutory Clarification and Simplification of CID Law.

The Commission decided that it would not review any further public comments on the draft legislation until after it has been circulated as part of a tentative recommendation.
The Commission approved the staff recommendations in the memorandum, except as indicated in the list of specific decisions set out below.

**2009 Legislation**

The staff will consult with legislative staff regarding the proposed treatment of changes in the law made this year by AB 899 (Torres) (discussed at pages 6-9 of the memorandum).

**Legislative Counsel**

The staff will consult with the Legislative Counsel regarding (1) the use of parenthetical references in statutory text and (2) the possibility of providing links to relevant Commission Comments in the online database of California statutory law.

**Proposed Civil Code §§ 4065 & 4070. Member Approval Requirements**

The Comments to proposed Sections 4065 and 4070 will be revised to make clear that they apply to any election conducted pursuant to a provision of the Davis-Stirling Common Interest Development Act.

**Proposed Civil Code § 4220. Condominium Boundaries**

The Commission disapproved the revision of proposed Section 4220 that is set out on page 47 of the memorandum. Instead, a note will be added following that section inviting comment on any problems caused by the existing language and requesting specific amendment language to address those problems.

**Proposed Civil Code § 4295. Amendment or Revocation of Condominium Plan**

Proposed Section 4295 will be revised to read:

4295. A condominium plan may be amended or revoked by a recorded instrument that is acknowledged and signed by all the persons who, at the time of amendment or revocation, are persons whose signatures are required pursuant to Section 4290.

**Proposed Civil Code § 4525. Seller Disclosures**

The first paragraph of proposed Section 4525 will be revised as proposed on page 39 of the memorandum. No other revisions were made to that section.
Proposed Civil Code § 4600. Grant of Exclusive Use Common Area

Proposed Section 4600 will be revised as set out on pages 50 and 51 of the memorandum. In addition, proposed Section 4600(b) will be revised to provide an exemption for a grant that is required by law.

Proposed Civil Code § 5500. Reserve Accounts

The Commission disapproved the change to proposed Section 5500(e) described on page 16 of the memorandum.

Proposed Civil Code § 5655. Overnight Delivery of Assessments

The Commission disapproved the revision of proposed Section 5655(c) that is set out on page 43 of the memorandum.

Proposed Section 5310 will be revised to require that the address for overnight delivery of assessments be included in the annual policy statement.

STUDY J-1404 — STATUTES MADE OBSOLETE
BY TRIAL COURT RESTRUCTURING: PART 5

The Commission considered Memorandum 2009-49, discussing comments received on the Tentative Recommendation on Statutes Made Obsolete by Trial Court Restructuring: Part 5.

Subject to the changes described below, the Commission approved the proposal as a final recommendation, for printing and submission to the Legislature. The staff will conform the preliminary part and remainder of the proposal as necessary to reflect the revisions approved by the Commission.

Government Code Section 53647.5

Government Code Section 53647.5 should be amended as follows:

53647.5. Notwithstanding any other provision of law, interest earned on any bail money deposited by a court in a bank account pursuant to Section 1463.1 of the Penal Code and Section 53679 of this code shall, if the board of supervisors so directs, be allocated for the support of the courts in that county that court.

Comment. Section 53647.5 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code §§ 77000-77655). See, e.g., Gov’t Code §§ 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810.
Government Code Section 71601

Government Code Section 71601 should be amended as follows:

71601. For purposes of this chapter, the following definitions shall apply:

....

(i) “Subordinate judicial officer” means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, child support commissioner, referee, traffic referee, and juvenile court referee, and juvenile hearing officer.

....

Comment. Subdivision (i) of Section 71601 is amended to expressly refer to a child support commissioner and juvenile hearing officer. See Fam. Code §§ 4251, 4252, 17306, 17441, 17712 (child support commissioners); Welf. & Inst. Code § 255 (juvenile hearing officers).

Subdivision (i) is also amended for consistency of terminology. See Gov’t Code § 70045.4 (juvenile court referee); Penal Code § 853.6a (same); Veh. Code § 40502 (same); Welf. & Inst. Code § 264 (same).

Penal Code Section 13510

Penal Code Section 13510 should be amended as follows:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff’s office, marshals or deputy marshals of a municipal court, peace officer members of a county coroner’s office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney’s office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff’s offices,
marshals or deputy marshals of a municipal court, peace officer
members of a county coroner’s office notwithstanding Section
13526, reserve officers, as defined in subdivision (a) of Section
830.6, police officers of a district authorized by statute to maintain a
police department, peace officer members of a police department
operated by a joint powers agency established by Article 1
(commencing with Section 6500) of Chapter 5 of Division 7 of Title
1 of the Government Code, regularly employed and paid inspectors
and investigators of a district attorney’s office, as defined in Section
830.1, who conduct criminal investigations, peace officer members
of a district, safety police officers and park rangers of the County of
Los Angeles, as defined in subdivisions (a) and (b) of Section
830.31, and housing authority police departments.

These rules shall apply to those cities, counties, cities and
counties, and districts receiving state aid pursuant to this chapter
and shall be adopted and amended pursuant to Chapter 3.5
(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
the Government Code.

Comment. Section 13510 is amended to reflect unification of the
municipal and superior courts pursuant to former Section 5(e) of
Article VI of the California Constitution.

The discussion in the preliminary part (p. 2 of the tentative recommendation,
lines 17-26) should be revised to read:

Penal Code Section 13510 contains references to “marshals or
deputy marshals of a municipal court.”

Marshals historically served the municipal courts. Because there
no longer are any municipal courts, most counties no longer have a
marshal. However, there are still marshals in a few counties.¹

To reflect the current status of marshals, the Commission
recommends that Section 13510 be amended to delete the references
to “marshals or deputy marshals of a municipal court,” and replace
them with references to “marshals or deputy marshals.”²

1. For example, the marshal in Shasta County is primarily responsible for
providing security services to the superior court, and is employed by the court.
2. See proposed amendment to Penal Code § 13510 infra.

Evidence Code Section 731

Evidence Code Section 731 should be amended as follows:

731. (a)(1) In all criminal actions and juvenile court proceedings,
the compensation fixed under Section 730 shall be a charge against
the county in which such the action or proceeding is pending and
shall be paid out of the treasury of such that county on order of the
court.

— 7 —
Notwithstanding paragraph (1), if the expert is appointed for
the court’s needs, the compensation shall be a charge against the
court.

(b) In any county in which the superior court so provides, the
compensation fixed under Section 730 for medical experts
appointed for the court’s needs in civil actions shall be a charge
against the court. In any county in which the board of supervisors
so provides, the compensation fixed under Section 730 for medical
experts appointed in civil actions, for purposes other than the
court’s needs, in such county shall be a charge against and paid out
of the treasury of such county on order of the court.

(c) Except as otherwise provided in this section, in all civil
actions, the compensation fixed under Section 730 shall, in the first
instance, be apportioned and charged to the several parties in such
a proportion as the court may determine and may thereafter be
taxed and allowed in like manner as other costs.

Comment. Subdivisions (a) and (b) of Section 731 are amended
to reflect the enactment of the Lockyer-Isenberg Trial Court
Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code
§§ 77000-77655). See, e.g., Gov’t Code §§ 77001 (local trial court
management), 77003 (“court operations” defined), 77200 (state
funding of “court operations”); see also Cal. R. Ct. 10.810, Functions
4 (court interpreters) & 10 (referring to “court-appointed expert
witness fees (for the court’s needs)

Subdivisions (a), (b), and (c) are also amended to make stylistic
revisions.

Evidence Code Section 752

Evidence Code Section 752 should be amended as follows:

752. (a) When a witness is incapable of understanding the
English language or is incapable of expressing himself or herself in
the English language so as to be understood directly by counsel,
court, and jury, an interpreter whom he or she the witness can
understand and who can understand him or her the witness shall
be sworn to interpret for him or her the witness.

(b) The record shall identify the interpreter, who may be
appointed and compensated as provided in Article 2 (commencing
with Section 730) of Chapter 3, with that compensation charged as
follows:

(1) In all criminal actions and juvenile court proceedings, the
compensation for an interpreter under this section shall be a charge
against the court.

(2) In all civil actions, the compensation for an interpreter under
this section shall, in the first instance, be apportioned and charged
to the several parties in a proportion as the court may determine
and may thereafter be taxed and allowed in like manner as other
costs.
Comment. Subdivision (a) of Section 752 is amended to make stylistic revisions.
Subdivision (b) is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code §§ 77000-77655). See, e.g., Gov’t Code §§ 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810, Function 4 (court interpreters).
Subdivision (b) is also amended to make a stylistic revision.
The purpose of the revisions in the act that amended this section is to remove material made obsolete by trial court restructuring. See Gov’t Code § 71674. The act should not be construed as a re-evaluation of the extent to which interpretation or translation should be provided in court proceedings, or who should bear the expense of interpretation or translation.

Evidence Code Section 753
Evidence Code Section 753 should be amended as follows:

753. (a) When the written characters in a writing offered in evidence are incapable of being deciphered or understood directly, a translator who can decipher the characters or understand the language shall be sworn to decipher or translate the writing.
(b) The record shall identify the translator, who may be appointed and compensated as provided in Article 2 (commencing with Section 730) of Chapter 3, with that compensation charged as follows:
   (1) In all criminal actions and juvenile court proceedings, the compensation for an interpreter under this section shall be a charge against the court.
   (2) In all civil actions, the compensation for a translator under this section shall, in the first instance, be apportioned and charged to the several parties in a proportion as the court may determine and may thereafter be taxed and allowed in like manner as other costs.

Comment. Subdivision (b) is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code §§ 77000-77655). See, e.g., Gov’t Code §§ 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810, Function 4 (court interpreters).
Subdivision (b) is also amended to make a stylistic revision.
The purpose of the revisions in the act that amended this section is to remove material made obsolete by trial court restructuring. See Gov’t Code § 71674. The act should not be construed as a re-evaluation of the extent to which interpretation or translation should be provided in court proceedings, or who should bear the expense of interpretation or translation.
Government Code Section 68092

Government Code Section 68092 should be amended as follows:

68092. Interpreters' Court interpreters' and translators’ fees or other compensation shall be paid:

(a) In criminal cases, and in coroners' cases, from the county treasury upon warrants drawn by the county auditor, when so ordered by the court or by the coroner, as the case may be.

(b) In civil cases, by the litigants, in such proportions as the court may direct, to be taxed and collected as other costs. The county’s proportion of such fees so ordered to be paid in any civil suit to which the county is a party shall be paid in the same manner as such fees are paid in criminal cases.

Comment. Section 68092 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). Under that act, the state, not the county, funds the cost of “court operations.” See, e.g., Sections 77003 (“court operations” defined), 77200 (state funding of “court operations”). Interpretation by a court interpreter for a court proceeding is a court operation and therefore payable by the court and ultimately by the state. See Cal. R. Ct. 810, Function 4 (court interpreters). In contrast, interpretation beyond the court context (e.g., during a client interview), or for a coroner’s case, is not a court operation and thus remains payable by the county. See Cal. R. Ct. 810 (listing matters classified as court operations).

The material relevant to coroner’s cases in subdivision (a) is relocated to Section 27473 of the Government Code.

Section 68092 is also amended to refer to compensation, not just fees. Under the Trial Court Interpreter Employment and Labor Relations Act (Sections 71801-71829), interpreters may be paid a salary (e.g., as court employees) or may be paid on a daily basis (e.g., as independent contractors). See Section 71802.

Section 68092 is further amended to make stylistic revisions.

For provisions governing the cost of translation of a writing offered in evidence, see Evidence Code Section 753. For provisions governing compensation of an interpreter for a witness, see Evidence Code Section 752.

The purpose of the revisions in the act that amended this section is to remove material made obsolete by trial court restructuring. See Gov’t Code § 71674. The revisions should not be construed as a re-evaluation of the extent to which interpretation or translation should be provided in court proceedings, or who should bear the expense of interpretation or translation.

A new section should be added to the Government Code, as follows:

27473. In coroners’ cases, interpreters’ and translators’ fees or other compensation shall be paid from the county treasury upon
warrants drawn by the county auditor, when so ordered by the coroner.

Comment. Section 27473 continues part of the substance of former Section 68092(a). The material relating to coroners’ cases in Section 68092 is relocated to Section 27473 to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655).

The purpose of the revisions in the act that amended this section is to remove material made obsolete by trial court restructuring. See Gov’t Code § 71674. The revisions should not be construed as a re-evaluation of the extent to which interpretation or translation should be provided, or who should bear the expense of interpretation or translation.

STUDY J-1452 — TRIAL COURT RESTRUCTURING: WRIT JURISDICTION IN A SMALL CLAIMS CASE

The Commission considered Memorandum 2009-51, presenting a progress update on writ jurisdiction in a small claims case. No Commission action was required or taken.

STUDY M-300 — NONSUBSTANTIVE REORGANIZATION OF DEADLY WEAPON STATUTES

The Commission considered Memorandum 2009-54, relating to updating the pre-print recommendation that it approved in June 2009. The revisions described in the memorandum were acceptable to the Commission.

☐ APPROVED AS SUBMITTED

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

_____________________________________
Date

_____________________________________
Chairperson

_____________________________________
Executive Secretary