
MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
APRIL 3, 2012
SACRAMENTO

A meeting of the California Law Revision Commission was held in Sacramento on April 3, 2012.

Commission:

Present: Crystal Miller-O'Brien, Chairperson
Xochitl Carrion, Vice Chairperson
Diane Boyer-Vine, Legislative Counsel
Judge Patricia Cowett (Ret.)
Victor King

Absent: Roger Dickinson, Assembly Member
Tom Harman, Senate Member

Staff: Brian Hebert, Executive Director
Barbara Gaal, Chief Deputy Counsel
Steve Cohen, Staff Counsel
Mina Choi, Legal Extern
Courtney Taylor, Legal Extern

Consultants: None

Other Persons:

Myriam Bouaziz, California State Assembly
Lindsey Scott-Florez, Senate Office of Research

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1 MINUTES OF FEBRUARY 9, 2012, COMMISSION MEETING

2 The Commission approved the Minutes of the February 9, 2012, Commission
3 meeting as submitted by the staff.

4 ADMINISTRATIVE MATTERS

5 Report of Executive Director

6 The Executive Director had nothing to report.

7 Election of Officers

8 The Commission considered Memorandum 2012-8, relating to the election of
9 Commission officers. The Commission elected Crystal Miller-O'Brien as
10 Chairperson and Xochitl Carrion as Vice Chairperson, for a term commencing
11 immediately and ending August 31, 2012.

LEGISLATIVE PROGRAM

12 The Commission considered Memorandum 2012-9, reporting on the
13 Commission's 2012 legislative program. The Commission made the following
14 decisions:

- 15 • It approved the proposed amendments to ACR 98 (Wagner) that
16 are described in the memorandum.
17 • It authorized the Executive Director, in consultation with the
18 Chairperson, to cancel, reschedule, or change the agenda of the
19 Commission's June meeting, if Health and Safety Code Section
20 34189(b) is repealed before the meeting.

1 STUDY D-356 — THIRD DECENNIAL REVIEW OF EXEMPTIONS
2 FROM ENFORCEMENT OF MONEY JUDGMENTS

3 The Commission considered Memorandum 2012-10, beginning the
4 Commission’s third decennial review of the amounts of the exemptions from
5 enforcement of judgments, as required by Code of Civil Procedure Section
6 730.120(a). For the reasons stated in the memorandum, the Commission directed
7 the staff to prepare a draft tentative recommendation to repeal the decennial
8 review requirement. The staff draft tentative recommendation will be presented
9 to the Commission for review at a future meeting.

10 STUDY H-750 — COMMUNITY REDEVELOPMENT LAW CLEAN-UP

11 The Commission considered the following memoranda, discussing the clean-
12 up of community redevelopment law: 2012-11, 2012-12, 2012-13, 2012-14, 2012-15,
13 2012-16 (through the first full paragraph of page 10), and 2012-17. All statutory
14 references in this portion of the Minutes are to the Health and Safety Code.

15 **Narrative Discussion in Recommendation**

16 The Commission decided that the narrative “preliminary part” of the
17 recommendation in this study should explain why the Commission is not
18 recommending the use of “sunset dates” to repeal obsolete provisions of
19 redevelopment law (the principal reason being the uncertain and potentially
20 lengthy duration of the period in which some provisions of statutory
21 redevelopment law will remain legally relevant).

22 The preliminary part should also note that there are ongoing efforts within
23 the Legislature to address substantive problems in the law governing the
24 dissolution of redevelopment agencies.

25 **Savings Provision**

26 The Commission revised proposed Health and Safety Code Section 33090,
27 along the following lines:

28 **Health & Safety Code § 33090 (added). Savings provision**

29 33090. (a) For the purposes of this section, the following terms
30 have the following meanings:

31 (1) “Former law” means the law in effect before the operative
32 date of the Redevelopment Clean-Up Act.

33 (2) “Redevelopment Clean-Up Act” means the act that added
34 this section.

1 (3) “Transitional period” means the period during which either
2 or both of the following are true:

3 (A) A successor agency is winding down the affairs of a former
4 redevelopment agency.

5 (B) An arbitration, administrative adjudication or other
6 administrative proceeding, civil action or proceeding, criminal
7 action or proceeding, or any other kind of legally binding
8 proceeding relating to redevelopment is pending or may be legally
9 brought without violating the applicable statute of limitations.

10 (b) The repeal or amendment of a provision of former law by
11 the Redevelopment Clean-Up Act shall have no effect, during the
12 transitional period, on the policy, substance, construction, or
13 application of former law with regards to any redevelopment-
14 related matter, including, ~~without limitation~~ but not limited to, any
15 of the following redevelopment-related matters:

16 (1) The authority, rights, powers, duties, and obligations of a
17 successor agency or any other person or entity who is granted or
18 charged with authority, rights, powers, duties, and obligations
19 relating to redevelopment.

20 (2) The allocation of revenue pursuant to Part 1.85 (commencing
21 with Section 34170).

22 (3) The rights of an employee of a former redevelopment agency
23 who became an employee of a successor agency pursuant to Section
24 34190.

25 (4) Any provision of former law authorizing legal action or
26 specifying rules of evidence or procedure governing a legal action
27 brought by or against a former redevelopment agency or a
28 successor agency.

29 (5) The validity of any bond issued by a redevelopment agency.

30 (6) The validity of any redevelopment-related ordinance,
31 resolution, referendum, regulation, plan, report, map, boundary
32 description, or other legally operative document promulgated by a
33 former redevelopment agency, a successor agency, or any other
34 person or entity.

35 (7) Any rule or procedure relating to any aspect of
36 redevelopment, including, but not limited to, any rule relating to an
37 ordinance, resolution, referendum, regulation, bylaw, or other
38 legislative act in connection with redevelopment.

39 (8) Any determination of a base year assessment roll.

40 (9) Any legislative declaration of public policy relating to
41 redevelopment.

42 (c) ~~The Legislature makes the following declarations of intent:~~

43 (1) ~~The purpose of the Redevelopment Law Clean Up Act is to~~
44 ~~repeal those provisions of law that will have no relevance or effect~~
45 ~~once the transitional period has ended. However, some of those~~
46 ~~obsolete provisions could have relevance during the transitional~~
47 ~~period.~~

48 (2) ~~The law governing the redevelopment activities of successor~~
49 ~~agencies and other persons and entities during the transitional~~

1 ~~period is not affected in any way by the enactment of the~~
2 ~~Redevelopment Law Clean-Up Act. Whatever law governed those~~
3 ~~activities prior to enactment of the Redevelopment Law Clean Up~~
4 ~~Act would apply to the same extent during the transitional period,~~
5 ~~notwithstanding the repeal or amendment of any code provision by~~
6 ~~the Redevelopment Law Clean-Up Act.~~

7 ~~(3) The substantive and procedural law applicable in any~~
8 ~~redevelopment related adjudicative proceeding is not affected in~~
9 ~~any way by the enactment of the Redevelopment Law Clean Up~~
10 ~~Act. Whatever law governed those proceedings prior to enactment~~
11 ~~of the Redevelopment Law Clean-Up Act would apply to the same~~
12 ~~extent during the transitional period, notwithstanding the repeal or~~
13 ~~amendment of any code provision by the Redevelopment Law~~
14 ~~Clean-Up Act.~~

15 ~~(4) Nothing in the Redevelopment Law Clean-Up Act is~~
16 ~~intended to endorse, abrogate, or otherwise affect endorses,~~
17 ~~abrogates, or otherwise affects any judicial decision interpreting a~~
18 ~~provision of former law or determining its constitutionality.~~

19 ~~(5) (d) Nothing in the Redevelopment Law Clean-Up Act is~~
20 ~~intended to preclude precludes any change in the law governing~~
21 ~~redevelopment during the transitional period.~~

22 ~~(6) (e) This section shall be liberally construed to achieve its~~
23 ~~purpose.~~

24 **Comment.** Section 33090 is intended to make clear that the
25 Redevelopment Law Clean-Up Act has no effect on the validity,
26 meaning, or application of a provision of former law during the
27 transitional period. To the extent that a provision of former law
28 applied to redevelopment matters before the operation of this
29 section, it will continue to apply with the same meaning and effect
30 during the transitional period, notwithstanding the repeal or
31 amendment of the provision by the Redevelopment Law Clean-Up
32 Act.

33 However, nothing in this section precludes future changes to
34 redevelopment law. The meaning, effect, or application of a
35 provision of former law could be changed or reinterpreted by a
36 future statutory enactment or judicial interpretation.

37 The sole purpose of this section is to provide that the
38 Redevelopment Law Clean-Up Act has no effect on the former law
39 during the transitional period. Nothing in this section is intended
40 to endorse, abrogate, or otherwise affect the validity, meaning,
41 application, or judicial construction of a provision of former law.

42 In addition, the staff will revise proposed Section 33090(a)(3)(B) to include a
43 reference to mediation. The staff will also assess the extent to which language in
44 deleted paragraphs (c)(1)-(3) might be incorporated into the Commission's
45 Comment.

1 Commissioner Boyer-Vine will investigate the feasibility of maintaining an
2 electronic compilation of former statutory redevelopment law on the Legislative
3 Counsel website.

4 The staff will prepare a new memorandum, setting out the most recently
5 revised version of the savings provision, for consideration at each meeting at
6 which the redevelopment study is on the agenda.

7 **General Provisions**

8 The Commission reviewed the “General Provisions” in Chapter 1 of Part 1 of
9 Division 24 (Sections 33000-33080.8). For purposes of a tentative
10 recommendation, the Commission made the following decisions:

- 11 • The proper disposition of the “short title” provision (Section
12 33000) cannot be determined until after the Commission has
13 completed its review of Part 1 of Division 24. If Section 33000 is
14 repealed, the savings provision (proposed Section 33090) should
15 prevent that repeal from having any substantive effect during the
16 transitional period.
- 17 • The proper disposition of the general definition provisions
18 (Sections 33001-33031) cannot be determined until after the
19 Commission has completed its review of statutory redevelopment
20 law. If the definition provisions are repealed, the savings provision
21 (proposed Section 33090) should prevent that repeal from having
22 any substantive effect during the transitional period.
- 23 • The legislative declaration provisions (Sections 33030(a), 33035-
24 33071), should be repealed because they will be obsolete once the
25 transitional period has ended. If the legislative declaration
26 provisions are repealed, the savings provision (proposed Section
27 33090) should prevent that repeal from having any substantive
28 effect during the transitional period. To reinforce that point, the
29 Commission made two minor revisions to the savings provision:
30 the word “policy” was added to the introductory clause of
31 subdivision (b) and paragraph (b)(9) was added. See “Savings
32 Provision” above.
- 33 • The annual reporting provisions (Sections 33080-33080.8) should
34 be repealed because they will be obsolete once the transitional
35 period has ended. If the annual reporting provisions are repealed,
36 the savings provision (proposed Section 33090) should prevent
37 that repeal from having any substantive effect during the
38 transitional period.

1 **Redevelopment Agencies**

2 The Commission reviewed provisions governing the formation and powers of
3 redevelopment agencies, in Articles 1-3 of Chapter 2 of Part 1 of Division 24
4 (Sections 33100-33136). For purposes of a tentative recommendation, the
5 Commission made the following decisions:

- 6 • The provisions on the existence and establishment of
7 redevelopment agencies (Sections 33100-33105) should be repealed
8 because they will be obsolete once the transitional period has
9 ended. If the provisions on the existence and establishment of
10 redevelopment agencies are repealed, the savings provision
11 (proposed Section 33090) should prevent that repeal from having
12 any substantive effect during the transitional period. To reinforce
13 that point, the Commission made three minor revisions to the
14 savings provision: paragraph (b)(6) was revised to refer to a
15 “referendum,” paragraph (b)(6) was revised to refer to “any
16 person or entity,” and paragraph (b)(7) was added. See “Savings
17 Provision” above.
- 18 • The provisions governing the membership and powers of
19 redevelopment agencies (Sections 33110-33136) should be repealed
20 because they will be obsolete once the transitional period has
21 ended. If the provisions on the membership and powers of
22 redevelopment agencies are repealed, the savings provision
23 (proposed Section 33090) should prevent that repeal from having
24 any substantive effect during the transitional period. To reinforce
25 that point, the Commission will revise the savings provision to
26 make clear that the power of a redevelopment agency to sue and
27 be sued would not be affected by the repeal of Section 33125, even
28 if a suit against a redevelopment agency does not involve statutory
29 redevelopment law. The staff will draft language to implement
30 this decision, for review at a future meeting.

31 Notwithstanding the foregoing, the Commission did not consider or decide
32 any issues specifically relating to employee compensation rights. Those issues
33 will be addressed at a future meeting.

34 **Early Stages of Redevelopment**

35 The Commission reviewed provisions governing the early stages of the
36 redevelopment process, in Articles 1-3 of Chapter 4 of Part 1 of Division 24
37 (Sections 33300-33328.7). For purposes of a tentative recommendation, the
38 Commission made the following decisions:

- 39 • The provisions on “Community Prerequisites” (Sections 33300-
40 33302) should be repealed because they will be obsolete once the

1 transitional period has ended. If the “Community Prerequisites”
2 provisions are repealed, the savings provision (proposed Section
3 33090) should prevent that repeal from having any substantive
4 effect during the transitional period.

- 5 • The proper disposition of provisions on “Designation of Survey
6 Area” (Sections 33310-33312) cannot be determined at this time.
7 The staff will bring the matter back for the Commission to revisit
8 later in this study. If the provisions on “Designation of Survey
9 Area” are repealed, the savings provision (proposed Section 33090)
10 should prevent that repeal from having any substantive effect
11 during the transitional period. To reinforce that point, the
12 Commission made one minor revision to the savings provision: the
13 word “resolution” was added to paragraph (b)(6). See “Savings
14 Provision” above.
- 15 • The proper disposition of provisions on selection of a project area
16 (Sections 33320.1, 33320.2, 33321, 33322 (1st ¶), 33323 (1st cl.),
17 33321.5, and 33326) cannot be determined at this time. The staff
18 will bring the matter back for the Commission to revisit later in
19 this study. If the provisions on selection of a project area are
20 repealed, the savings provision (proposed Section 33090) should
21 prevent that repeal from having any substantive effect during the
22 transitional period.
- 23 • The provisions governing the formulation of a preliminary plan
24 (Health & Safety Code §§ 33322 (2d ¶), 33323 (2d cl.), 33324, and
25 33325) should be repealed because they will be obsolete once the
26 transitional period has ended. If the provisions on formulation of a
27 preliminary plan are repealed, the savings provision (proposed
28 Section 33090) should prevent that repeal from having any
29 substantive effect during the transitional period.
- 30 • The proper disposition of provisions governing the base year
31 assessment roll and related reports (Sections 33327, 33328, 33328.1,
32 33328.3, 33328.4, 33328.5, 33328.7) cannot be determined at this
33 time. The staff will bring the matter back for the Commission to
34 revisit later in this study. If the base year assessment roll
35 provisions are repealed, the savings provision (proposed Section
36 33090) should prevent that repeal from having any substantive
37 effect during the transitional period. To reinforce that point, the
38 Commission made two minor revisions to the savings provision:
39 the words “report, map, boundary description” were added to
40 paragraph (b)(6) and paragraph (b)(8) was added. See “Savings
41 Provision” above.
- 42 • The staff will prepare a memorandum, for consideration at a
43 future meeting, that focuses on geographically-specific provisions
44 of redevelopment law, like Section 33492.116 (relating to the
45 survey area for redevelopment of the Tustin Marine Corps Air
46 Station). The memorandum will also include geographically-

1 specific provisions governing selection of a project area (Sections
2 33320.3, 33320.4, 33320.8).

3 **Legal Action**

4 The Commission reviewed the provisions governing legal actions in Chapter
5 5 of Part 1 of Division 24 (Sections 33500-33515). For purposes of a tentative
6 recommendation, the Commission made the following decisions:

- 7 • The provisions on legal actions (Sections 33500-33515) should be
8 repealed because they will be obsolete once the transitional period
9 has ended. If the provisions on legal actions are repealed, the
10 savings provision (proposed Section 33090) should prevent that
11 repeal from having any substantive effect during the transitional
12 period. To reinforce that point, the Commission made minor
13 revisions to paragraph (b)(4). See "Savings Provision" above.

14 **List of Minor Issues for Possible Future Legislative Action**

15 The Commission approved the draft report attached to Memorandum 2012-
16 13, for inclusion in a tentative recommendation.

17 The Commission revised its description of that report (as set out on page 6 of
18 the Minutes of the February 9, 2012, meeting) along the following lines:

19 ~~If the Commission discovers a possible substantive defect in~~
20 ~~ABx1-26 or any other~~ a provision of the community redevelopment
21 statutes contains an apparent substantive defect or its meaning is
22 unclear, the matter will be noted Commission may note the matter
23 in an appendix for inclusion in the Commission's final report. The
24 appendix will state expressly that it has been prepared solely for
25 informational purposes and that the Commission does not take any
26 position on whether or how any of the issues noted in the appendix
27 should be addressed. The appendix will also make clear that the
28 omission of any issue from the appendix should not be construed
29 to infer that the Commission evaluated the issue and concluded
30 that it is unproblematic.

APPROVED AS SUBMITTED

Date

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

Chairperson

Executive Director