
MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
AUGUST 17, 2012
LOS ANGELES

A meeting of the California Law Revision Commission was held in Los Angeles on August 17, 2012.

Commission:

Present: Crystal Miller-O'Brien, Chairperson
Xochitl Carrion, Vice Chairperson
Diane Boyer-Vine, Legislative Counsel
Damian Capozzola
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

Consultants: None

Other Persons:

Seth Bramble, California Teacher's Association
Mark Guithues, Community Legal Advisors, Inc.
R. Blake Hite, Mar West Real Estate, Inc.
Rand Martin, Rose & Kindel
Douglas C. Miller, Administrative Office of the Courts
Jacquelyn Paige, AARP
Theresa Renken, Alzheimer's Association
Craig Stevens, Mar West Real Estate, Inc.
Julie Umansky, California Charter Schools Association
Jennifer Wilkerson, State Bar Trust and Estates Section, Executive Committee

1 memorandum. Commissioner Patricia Cowett recused herself from participation
2 in that decision.

3 STUDY D-356 — THIRD DECENNIAL REVIEW OF EXEMPTIONS
4 FROM ENFORCEMENT OF MONEY JUDGMENTS

5 The Commission considered Memorandum 2012-31, which presented a staff
6 draft of a tentative recommendation on *Third Decennial Review of Exemptions from*
7 *Enforcement of Money Judgments*. The Commission approved the staff draft for
8 circulation as a tentative recommendation.

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

10 The Commission considered Memorandum 2012-30 and its First Supplement,
11 which presented a staff draft of a final report on *Charter Schools and the*
12 *Government Claims Act*. The Commission approved the staff draft as its final
13 report, for printing and submission to the Legislature, subject to the decisions
14 described below:

15 **Facilities Funding**

16 The Commission revised lines 1 through 4, inclusive, on page 9 of the staff
17 draft report, as follows:

18 One challenge charter schools face is finding suitable facilities.
19 Initially, charter schools had extremely limited funding for
20 facilities. ~~To address the problem,~~ Recently, the Legislature has
21 expanded the availability of facilities funding for charter schools.

22 The Commission also revised footnote 53, on page 9 of the staff draft report,
23 as follows:

24 53. Educ. Code §§ 47614(b) (requiring school districts to share
25 facilities with charter schools and allowing school district to charge
26 pro rata share of actual costs, ~~such as maintenance and cleaning~~
27 ~~services~~), 47613(b) (allowing school district to provide rent-free
28 facilities as part of three percent oversight fee).

29 **Suspension and Expulsion**

30 The Commission added language along the following lines at the end of line
31 12 of page 34 of the staff draft report:

32 Charter schools are also exempt from the law mandating the
33 expulsion of students for specified dangerous offenses, including

1 weapons possession, drug sales, and sexual assault. [fn. See Educ.
2 Code § 48915(c)-(d).]

3 Also, the staff will add language making clear that the cited examples of health
4 and safety statutes that do not apply to charter schools are not intended to be
5 exhaustive.

6 **School Choice**

7 The Commission added the following language as a footnote on the end of
8 line 18 of page 34 of the staff draft report:

9 It should be noted that charter schools are schools of choice.
10 Parents are never required to enroll their children in charter schools
11 and are free to withdraw them and enroll them in other schools.
12 This could create an additional check on student health and safety
13 risks in charter schools that does not exist in a traditional public
14 school. To the extent that parents become aware of risks to student
15 health and safety in a charter school, they may choose to withdraw
16 their children from the school.

17 **Accountability**

18 The Commission added the following language to the new footnote at the
19 end of line 18 of page 34 of the staff draft report:

20 While charter schools are not subject to the same statutory
21 health and safety requirements that govern traditional public
22 schools, they are required to develop their own health and safety
23 policies as part of their charters. Failure to abide by those
24 voluntarily adopted policies can lead to revocation of the charter
25 and closure of the school. This does not guarantee the same level of
26 protection that is afforded through statutory regulation. Nor does it
27 provide for a uniform level of protection across the state's charter
28 school population. But it could serve as a check against some risky
29 health and safety practices.

30 **Civil Rights Liability**

31 The Commission added the following language at the end of line 11 of page
32 38 of the staff draft report:

33 A charter school could also face liability under the Unruh Act or
34 the Bane Act for illegal discrimination or a violation of civil rights,
35 arising from the charter school's obligations as part of the public
36 school system. See Civ. Code §§ 51, 52.1. Standard commercial
37 liability insurance may not cover all injuries arising from such
38 wrongs. See, e.g., Civ. Code § 2773 (barring indemnity for future
39 unlawful act); Ins. Code § 533 (barring coverage of wilful act).

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

2 The Commission considered Memorandum 2012-29, discussing the
3 enactment of a budget-related bill that repealed the statutory basis for the
4 Commission’s study of community redevelopment law. No Commission action
5 was required or taken in connection with the memorandum.

6 STUDY H-856 — COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENTS

7 The Commission considered Memorandum 2012-32 and its First Supplement,
8 which presented a staff draft of a recommendation on *Commercial and Industrial*
9 *Common Interest Developments*.

10 The Commission approved the staff draft as its final recommendation, for
11 printing and submission to the Legislature, subject to (1) all of the changes
12 recommended by the staff in the memoranda, and (2) the changes described
13 below:

14 **Status of AB 805 and 806 (Torres)**

15 The preliminary part of the recommendation was revised to reflect the
16 enactment of Assembly Bills 805 and 806 (Torres).

17 **Managing Agent**

18 The Comment to proposed Civil Code Section 6622 was revised as follows:

19 **Comment.** With respect to a commercial or industrial common
20 interest development, Section 6622 continues Section 1363.5
21 without change, except as indicated below.

22

23 Nothing in paragraph (a)(3) precludes an owner of a separate
24 interest from serving as the association’s managing agent.

25

26 **Operative Date of Proposed Law**

27 The proposed law was revised to have an operative date of January 1, 2014.
28 Conforming changes were made to proposed Civil Code Sections 6505 and 6622.

29 STUDY H-858 — COMMERCIAL AND INDUSTRIAL SUBDIVISIONS

30 The Commission considered Memorandum 2012-33 and its First Supplement,
31 which presented a staff draft tentative recommendation on *Commercial and*

1 *Industrial Subdivisions*. The Commission approved the staff draft for circulation as
2 a tentative recommendation, with the following changes:

3 (1) Proposed Business and Professions Code Section 11002(b)(3) and
4 proposed Civil Code Section 1373.5(b)(3) were revised along the following lines:

5 The short-term residential occupation of a boat, trailer, or motor
6 vehicle that is located on but not permanently affixed to a lot,
7 parcel, or separate interest. For the purposes of this paragraph
8 “short-term residential occupation” means occupation for no more
9 than 60 days out of each calendar year.

10 (2) The sentence on lines 6-9 of page 4 of the staff draft tentative
11 recommendation was revised as follows:

12 In ~~1980~~ 2000, the amendment was broadened again, to include
13 any subdivision that is limited to commercial or industrial use by a
14 recorded declaration (in addition to any subdivision that is
15 restricted to such uses by zoning).

16 (3) Footnote 19, on page 4 of the staff draft tentative recommendation was
17 revised as follows:

18 19. ~~1980 Cal. Stat. ch. 1336~~ 2000 Cal. Stat. ch. 279.

19 STUDY L-750 — UNIFORM ADULT GUARDIANSHIP AND
20 PROTECTIVE PROCEEDINGS JURISDICTION ACT

21 The Commission considered Memorandum 2012-34, Memorandum 2012-35,
22 and Memorandum 2012-36, which discuss the Uniform Adult Guardianship and
23 Protective Proceedings Jurisdiction Act (“UAGPPJA”). The Commission decided
24 to encourage Eric Fish (Legislative Counsel, Uniform Law Commission) to attend
25 its December meeting, and to devote a substantial portion of that meeting to
26 UAGPPJA, so that it can take full advantage of the opportunity to exchange ideas
27 and information with Mr. Fish.

28 The Commission also directed the staff to prepare memoranda on the
29 following topics for the October and December meetings (as recommended at
30 pages 34-35 of Memorandum 2012-35):

31 (1) A memorandum exploring the extent to which states adopting
32 UAGPPJA made modifications in the language proposed by the
33 Uniform Law Commission.

34 (2) A memorandum presenting student research (done in 2011) on
35 conservatorship proceedings in a number of different states.

- 1 (3) A memorandum presenting some student research (done in 2011)
2 on how other states handle relitigation of capacity.
- 3 (4) A memorandum discussing constitutional constraints applicable to
4 conservatorship proceedings and similar arrangements.
- 5 (5) A memorandum discussing how UAGPPJA would interrelate with
6 the special rules applicable to certain types of actions or decisions
7 involving a conservatee, such as medical treatment, sale of the
8 conservatee's residence, and execution of a will. If it appears
9 necessary, the staff should examine how such matters are treated
10 in neighboring states, not just in California.
- 11 The Commission authorized the staff to prepare additional memoranda or make
12 other adjustments in scope, so long as the above topics are covered.

APPROVED AS SUBMITTED _____ Date

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

_____ Executive Director