A meeting of the California Law Revision Commission was held in Sacramento on April 9, 2015.

Commission:

Present:  Victor King, Chairperson
          Crystal Miller-O’Brien, Vice Chairperson
          Diane F. Boyer-Vine, Legislative Counsel
          Damian Capozzola
          Xochitl Carrion
          Assembly Member Ed Chau
          Judge Patricia Cowett (Ret.)
          Taras Kihiczak
          Susan Duncan Lee

Absent: None

Staff:  Brian Hebert, Executive Director
        Barbara Gaal, Chief Deputy Counsel
        Kristin Burford, Staff Counsel
        Steve Cohen, Staff Counsel

Consultants: None

Other Persons:

Lazaro Cardenas, Office of Assembly Member Ed Chau
Edmundo Cuevas, Office of Assembly Member Ed Chau
Andrew Doan
Lawrence Doyle, Conference of California Bar Associations
Rachel Erlich, Ehrlich Mediation
James Ewert, California Newspaper Publishers Association
Daniel Felizzatto, Los Angeles County District Attorney’s Office
Robert Flack, California Dispute Resolution Council
Barbara Gill
Amelia Green, Stanford Law School
Ron Kelly
Janet Martinez, Stanford Law School
Nicole Moore, California Newspaper Publishers Association
Jordan Rice, Stanford Law School
Paul Rieker
Harold Thomas, Butte County District Attorney’s Office
John S. Warnlof, California Dispute Resolution Council

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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 voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted in connection with the affected decision.

MINUTES OF FEBRUARY 12, 2015, COMMISSION MEETING

Memorandum 2015-7 presented a draft of the Minutes of the February 12, 2015, Commission meeting. The Commission approved the Minutes without change. (Commissioner Carrion abstained; Commissioners Boyer-Vine, Chau, and Kihiczak were not present when the decision was made.)

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director reported on the following matters:

• Former Commissioner Forrest Plant died on February 20, 2015, at the age of 90. Mr. Plant was remembered and honored for his excellent service as a member of the Commission, which was distinguished by his high degree of diligence, intelligence, and personal warmth.
• Chairman King and the Executive Director attended an event, organized by common interest development stakeholder groups, that recognized and honored the Commission for its work to recodify the Davis-Stirling Common Interest Development Act.

• The facilities contract with King Hall School of Law is up for renewal.

The Commission also discussed ways in which the Commission could further improve its collaboration with King Hall School of Law. The Commission authorized the staff to take any of the following actions:

• Assign law student employees relatively modest and uncontroversial law reform projects, within the Commission’s study authority. When this work is included within a recommendation, the staff should look for opportunities to allow student employees to assist in supporting implementing legislation.

• Hold a reception for King Hall law students at the beginning of each academic year, to encourage interest in working for the Commission and to discuss careers in the lawmaking process.

• Expand the current practice of holding one meeting per year in the law school, to holding two meetings per year in that location. The staff will raise this issue more formally in a memorandum prepared for the June 2015 meeting. The staff will also investigate the feasibility of broadcasting these meetings over the Internet.

(Commissioners Boyer-Vine, Chau, and Kihiczak were not present when these decisions were made.)

Open Government Laws

The Commission considered Memorandum 2015-8, discussing open government laws applicable to the Commission.

The Commission made the following decisions regarding the public reporting of votes:

• The Minutes will include a general statement along the lines proposed at the top of page 7 of the memorandum. If any Commissioner votes against a particular decision, abstains from voting, or is not present when the decision is made, that fact will be noted in connection with the affected decision.

• Rule 2.4.5 of the Commission’s Handbook of Practices and Procedures will be revised as proposed on page 7 of the memorandum.

(Commissioners Boyer-Vine, Chau, and Kihiczak were not present when these decisions were made.)
2015 LEGISLATIVE PROGRAM

The Commission considered Memorandum 2015-9, reporting on the Commission’s 2015 legislative program.

The Commission assented to the differences between AB 139 (Gatto) and the Commission’s recommendation on Revocable Transfer on Death (TOD) Deed, 36 Cal. L. Revision Comm’n Reports 103 (2006), and approved conforming revisions to the Commission’s Comments. (Commissioners Boyer-Vine, Chau, and Kihiczak were not present when these decisions were made.)

STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION FROM COMMUNICATION SERVICE PROVIDERS

The Commission considered Memorandum 2015-10 and its First and Second Supplements, presenting and discussing a staff draft tentative report.

The Commission approved circulation of the draft as a tentative report, with a public comment deadline of June 15. The Commission made one change to the content of the report. The sentence beginning on page 1, line 30, was revised to insert a word, as shown in underscore below:

In addition, this report does not address access to information through discovery in a civil, criminal, or administrative adjudicative proceeding.

(Commissioner Boyer-Vine was not present when these decisions were made.)

STUDY J-1314 — TRIAL COURT UNIFICATION: PUBLICATION OF LEGAL NOTICE

The Commission considered Memorandum 2015-11, presenting a draft of proposed legislation using the “City Plus” model to describe districts. No Commission action was required or taken. The staff will prepare a draft tentative recommendation for consideration at the June meeting.

STUDY K-402 — RELATIONSHIP BETWEEN MEDIATION CONFIDENTIALITY AND ATTORNEY MALPRACTICE AND OTHER MISCONDUCT

The Commission considered Memorandum 2015-4 (further discussion of federal law), Memorandum 2015-5 (empirical data), and Memorandum 2015-13 (public comment). Paul Rieker submitted written materials at the meeting. No Commission action was required or taken.
STUDY R-100 — FISH AND GAME LAW

The Commission considered Memorandum 2015-12, discussing the Commission’s study of fish and game law.

The Commission made the following decisions:

• At appropriate intervals, the staff will post cumulative drafts of the proposed Fish and Wildlife Code on the Commission’s website. The drafts will not be distributed in hard copy form. The availability of these drafts will be noted, as appropriate, in staff memoranda. (Commissioners Chau and Kihiczak were not present when those decisions were made.)

• At appropriate intervals, the staff will post lists of proposed Fish and Wildlife Code provisions that assign duties and grant authority to an agency. The lists will not be distributed in hard copy form. The availability of these lists will be noted, as appropriate, in staff memoranda. (Commissioner Chau was not present when those decisions were made.)

• The organizational structure set out on pages 7-8 of the memorandum was approved. (Commissioner Chau was not present when that decision was made.)

• In general, provisions that govern multiple types of animals should be duplicated, with the copies distributed to the parts of the proposed Fish and Wildlife Code that relate to the affected types of animals (with any appropriate adjustments to the content of the duplicated provision). (Commissioner Chau was not present when that decision was made.)

• The Comments in this study should generally not list technical changes that would be made to the former law. (Commissioner Chau was not present when that decision was made.)

☐ APPROVED AS SUBMITTED

☐ APPROVED AS CORRECTED

Chairperson

Executive Director