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**APPROVED MINUTES OF MEETING**  
**CALIFORNIA LAW REVISION COMMISSION**  
**AUGUST 17, 2018**  
**Burbank**

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A meeting of the California Law Revision Commission was held in Burbank on August 17, 2018.

**Commission:**

- Present:* Thomas Hallinan, Chairperson  
Victor King  
Susan Duncan Lee  
Olga Mack  
Crystal Miller-O'Brien
- Absent:* Assembly Member Ed Chau  
Senator Richard D. Roth  
Diane F. Boyer-Vine, Legislative Counsel  
Jane McAllister, Vice-Chairperson

**Staff:**

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

**Other Persons:**

- Charles Martel, Judicial Council of California  
Joyce Riley, Bet Tzedek

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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 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.

MINUTES

The Commission considered Memorandum 2018-28, presenting draft Minutes for the May 4, 2018 meeting.

The Commission approved the Minutes for the May meeting without change.

ADMINISTRATIVE MATTERS

**Report of Executive Director**

The Executive Director reported that the Commission has been selected for an Independent Security Assessment by the California Department of Technology. Because of the Commission’s very small size and the fact that nearly all of its information technology services are provided by the University of California, the staff will attempt to obtain a waiver. If a waiver is not provided, the Commission may need to request a budget change to provide funding for the cost of the assessment.

**Commissioner Suggestions**

Commissioner Miller-O’Brien provided the staff with a document containing Internet links to information important to newly-appointed Commissioners. The staff will work that content into the information that is provided to new Commissioners.

**Handbook of Practices and Procedures**

The Commission considered Memorandum 2018-29, presenting a staff draft of a restated *Handbook of Practices and Procedures*. The Commission approved the staff draft as final, and made the following specific decisions:

- Language will be added to the *Handbook*, in or near Section 100, declaring that commissioners are state employees subject to state legal and ethical requirements. The provision will refer to relevant

1 pages of the CalHR and Fair Political Practices Commission  
2 websites.

- 3 • Going forward, the staff has discretion to make technical  
4 corrections to the *Handbook* as needed.
- 5 • Hard copies of the restated *Handbook* will be mailed to  
6 Commissioners.
- 7 • An electronic copy of the *Handbook* will be uploaded to the  
8 Commission's website.

### 9 **Election of Officers**

10 The Commission considered Memorandum 2018-39, relating to the election of  
11 Commission officers. The Commission elected Jane McAllister as Chairperson  
12 and Victor King as Vice Chairperson, for terms commencing September 1, 2018,  
13 and ending August 31, 2019.

### 14 2018 LEGISLATIVE PROGRAM

15 The Commission considered Memorandum 2018-30, discussing the  
16 Commission's 2018 Legislative Program.

17 No Commission actions were required or taken.

### 18 STUDY G-400 — CALIFORNIA PUBLIC RECORDS ACT CLEAN-UP

19 The Commission considered Memorandum 2018-40, presenting a cumulative  
20 draft of material previously considered. The Commission approved the revisions  
21 described in the memorandum (relating to timing of the proposed recodification,  
22 gender neutrality, internal cross-references, and various technical points). The  
23 Commission further decided to avoid the use of gendered pronouns wherever  
24 possible in future work on all of its studies.

25 The Commission also considered Memorandum 2018-32, presenting a draft of  
26 Chapters 2-4 of Part 5 of proposed new Division 10 of Title 1 of the Government  
27 Code. Subject to the decisions described below, the Commission approved that  
28 draft for purposes of a tentative recommendation.

### 29 **Definition of "Home Address" (Gov't Code § 6254.4(b); proposed Gov't Code §** 30 **7924.000(d))**

31 Proposed Government Code Section 7924.000 is acceptable as drafted.

1 **Definition of “Petition” (Gov’t Code § 6253.5(c); proposed Gov’t Code §**  
2 **7924.100)**

3 Proposed Government Code Section 7924.100 is acceptable as drafted.  
4 *(Chairperson Hallinan was not present for this decision.)*

5 **Definition of “Proponent of the Petition” (Gov’t Code § 6253.5(d); proposed**  
6 **Gov’t Code § 7924.105)**

7 Proposed Government Code Section 7924.105 is acceptable as drafted.  
8 *(Chairperson Hallinan was not present for this decision.)*

9 **Notice Requirement for a Proposed Pesticide Registration (Gov’t Code §**  
10 **6254.2(b); proposed Gov’t Code § 7924.305(a))**

11 Proposed Government Code Section 7924.305(a) is acceptable as drafted. The  
12 tentative recommendation should include a Note soliciting comments on  
13 whether that is the best place to recodify the second sentence of Government  
14 Code Section 6254.2(b) (notice requirement for proposed pesticide registration).

15 **Definition of “Trade Secret” Drawn From the Federal Insecticide, Fungicide,**  
16 **and Rodenticide Act (Gov’t Code § 6254.2(f); proposed Gov’t Code §**  
17 **7924.305(f))**

18 Proposed Government Code Section 7924.305(f) is acceptable as drafted.

19 **Violations of Building Standards and Safety Requirements (Gov’t Code §**  
20 **6254.7(c); proposed Gov’t Code § 7924.700)**

21 For present purposes, proposed “Article 3. Building Standards and Safety  
22 Requirements” (commencing with proposed Gov’t Code § 7924.700) is acceptable  
23 as drafted. Before seeking approval of a tentative recommendation, the staff  
24 should research the legislative history of Government Code Section 6254.7(c) and  
25 report back to the Commission. The tentative recommendation should include a  
26 Note soliciting Comment on the merits of recodifying that provision in a separate  
27 article, instead of keeping it with the other substance of Section 6254.7.

28 **STUDY J-1405 — STATUTES MADE OBSOLETE BY**  
29 **TRIAL COURT RESTRUCTURING: PART 6**

30 The Commission considered Memorandum 2018-31 and its First Supplement,  
31 relating to court facilities. For purposes of a tentative recommendation, the  
32 Commission made the decisions reported below.

1 **Leftover Issue From the May Discussion (Gov't Code §§ 26638.15, 69920-69927,**  
2 **73790-73796)**

3 Article 12.5 (commencing with Section 73790) of Chapter 10 of Title 8 of the  
4 Government Code, relating to Merced County, should be repealed. As discussed  
5 at pages 2-4 of Memorandum 2018-31, the accompanying Comment should refer  
6 to Government Code Section 69921.5.

7 **Jury Deliberation Rooms (Code Civ. Proc. § 216)**

8 Code of Civil Procedure Section 216 should be amended along the following  
9 lines:

10 **§ 216 (amended). Jury deliberation rooms**

11 SEC. \_\_\_\_\_. Section 216 of the Code of Civil Procedure is  
12 amended to read:

13 216. (a) At each court facility where jury cases are heard, the  
14 ~~board of supervisors~~ court shall provide a deliberation room or  
15 rooms for use of jurors when they have retired for deliberation. The  
16 deliberation rooms shall be designed to minimize unwarranted  
17 intrusions by other persons in the court facility, shall have suitable  
18 furnishings, equipment, and supplies, and shall also have restroom  
19 accommodations for male and female jurors.

20 ~~(b) If the board of supervisors neglects to provide the facilities~~  
21 ~~required by this section, the court may order the sheriff or marshal~~  
22 ~~to do so, and the expenses incurred in carrying the order into effect,~~  
23 ~~when certified by the court, are a county charge.~~

24 (c) ~~(b)~~ Unless authorized by the jury commissioner, jury  
25 assembly facilities shall be restricted to use by jurors and jury  
26 commissioner staff.

27 **Comment.** Section 216 is amended to reflect enactment of the  
28 Trial Court Funding Act of 1997 and the related Trial Court  
29 Facilities Act of 2002. See Sections 77003 ("court operations"  
30 defined), 77200 (state funding of trial court operations). See also  
31 Sections 70311-70312 (responsibility for court operations &  
32 facilities), 70391 (Judicial Council responsibility & authority for  
33 court facilities).

34 **Municipal Court Facilities, Supplies, and Equipment (Gov't Code §§ 71002,**  
35 **71383)**

36 Government Code Section 71002 should be repealed:

37 **§ 71002 (repealed). Municipal court facilities, supplies, and**  
38 **equipment**

39 SEC. \_\_\_\_\_. Section 71002 of the Government Code is repealed.

40 71002. ~~The board of supervisors shall provide suitable quarters~~  
41 ~~for the municipal courts, including heating, lighting, and janitorial~~  
42 ~~services, and shall supply them with furniture, books, and supplies~~

1 necessary for carrying out their duties, including supplies and  
2 equipment for the preparation and maintenance of duplicate  
3 records of the court or a division of the court when sessions are  
4 held at more than one place.

5 **Comment.** Section 71002 is repealed to reflect:

6 (1) Unification of the municipal and superior courts pursuant to  
7 former Article VI, Section 5(e), of the California Constitution.

8 (2) Enactment of the Trial Court Funding Act of 1997 and the  
9 related Trial Court Facilities Act of 2002. See Sections 77003 (“court  
10 operations” defined), 77200 (state funding of trial court operations).  
11 See also Sections 70311-70312 (responsibility for court operations &  
12 facilities), 70391 (Judicial Council responsibility & authority for  
13 court facilities).

14 Government Code Section 71383 should also be repealed:

15 **§ 71383 (repealed). “Board of supervisors”**

16 SEC. \_\_\_\_\_. Section 71383 of the Government Code is repealed.

17 71383. As used in Section 71002, “board of supervisors” means  
18 county or city and county.

19 **Comment.** Section 71383 is repealed to reflect the repeal of  
20 Section 71002.

21 The cross-reference to that section in Penal Code Section 1463.5 needs to be fixed  
22 (see Memorandum 2018-31, pp. 7-8). The staff should do further research on this  
23 matter and report back to the Commission.

24 **Task Force on Court Facilities (Gov’t Code §§ 77650-77655)**

25 Government Code Sections 77650-77654, relating to the Task Force on Court  
26 Facilities, should be repealed. Government Code Section 77655 should be  
27 amended as follows:

28 **Gov’t Code § 77655 (amended). Inadmissibility of Task Force**  
29 **findings**

30 SEC. \_\_\_\_\_. Section 77655 of the Government Code is amended to  
31 read:

32 77655. Notwithstanding any other provision of law, including  
33 Section 68073, the findings of the ~~task force~~ Task Force on Court  
34 Facilities created by Section 28 of Chapter 850 of the Statutes of  
35 1997 shall not be considered or entered into evidence in any action  
36 brought by trial courts to compel a county to provide facilities that  
37 the trial court contends are necessary and suitable.

38 **Comment.** Section 77655 is amended to make it read clearly as a  
39 stand-alone section. This is not a substantive change.

1 **Flags for Courtrooms (Gov't Code § 69504)**

2 Government Code Section 69504 should be amended as follows:

3 **§ 69504 (amended). Flags for courtrooms**

4 SEC. \_\_\_\_ . Section 69504 of the Government Code is amended to  
5 read:

6 ~~69504. The board of supervisors~~ superior court of each county  
7 shall purchase and provide for the installation of the Flag of the  
8 United States and the Bear Flag of California in each superior  
9 courtroom in the county.

10 Charles Martel of the Judicial Council will give the staff some citations relating to  
11 this matter. It does not appear necessary to include a Note specifically soliciting  
12 comment on it.

13 **Superior Court Chambers, Rules, and Hours of Operation (Gov't Code § 24261)**

14 Government Code Section 24261 should be repealed:

15 **§ 24261 (repealed). Superior court chambers, rules, and hours of  
16 operation**

17 SEC. \_\_\_\_ . Section 24261 of the Government Code is repealed.

18 ~~24261. The judges of the superior court shall have chambers at  
19 the county seat and establish rules and hours for the dispatch of  
20 official business; provided that such rules must require that the  
21 courts shall be open for the transaction of judicial business on days  
22 on which an election is held throughout the State where county  
23 offices are open for the transaction of county business during such  
24 election days pursuant to ordinance.~~

25 The tentative recommendation should include a Note soliciting comments on the  
26 repeal, along the following lines:

27 **Note.** The Commission welcomes comments on any aspect of this  
28 tentative recommendation, but it would especially appreciate  
29 comments on whether any part of Section 24261 needs to be  
30 preserved in some manner.

31 The content of Section 24261 relates to courts, which are no  
32 longer county-run. If any of the content remains useful, it should be  
33 placed with other material that relates to courts, not left in "Title 3.  
34 Government of Counties."

35 Due to the enactment of the Trial Court Funding Act and the  
36 Trial Court Facilities Act, the Commission has tentatively  
37 determined that Section 24261's requirement to "have [superior  
38 court] chambers at the county seat" is obsolete. See Memorandum  
39 2018-31, pp. 12-13; see also Memorandum 2018-21, pp. 7-14. Given

1 the judicial branch’s broad authority over court facilities (see  
2 Sections 69740 and 70391), is there any reason to retain this  
3 requirement relating to superior court chambers?

4 Due primarily to the enactment of Section 69740 (giving each trial  
5 court broad, overriding authority to schedule court sessions), the  
6 Commission has also tentatively determined that Section 24261’s  
7 requirements relating to hours of operation are obsolete. See  
8 Memorandum 2018-31, p. 13. Is that assessment correct? Is there  
9 any need to preserve Section 24261’s requirement relating to  
10 statewide elections? If so, should that be done in Section 69740?

11 Finally, the Commission has tentatively decided *not* to relocate  
12 Section 24261’s requirement that superior court judges “establish  
13 rules ... for the dispatch of official business.” Relocation of this  
14 material does not appear necessary because Section 68070 is similar  
15 in content.

16 **The Commission encourages stakeholders and other interested**  
17 **persons to consider these points and share their views.**

18 **Miscellaneous Statutes That Authorize a County to Acquire or Lease Property**  
19 **For, Construct, Remodel, and/or Maintain a Court Facility (Gov’t Code**  
20 **§§ 25351, 25351.3, 50531)**

21 Government Code Sections 25351 and 50531 do not appear to require any  
22 revisions to reflect trial court restructuring. They should not be included in the  
23 tentative recommendation.

24 Government Code Section 25351.3 should be amended along the following  
25 lines:

26 **§ 25351.3 (amended). Acquisition, rental, improvement,**  
27 **furnishing, and repair of real property and facilities**

28 SEC. \_\_\_\_\_. Section 25351.3 of the Government Code is amended  
29 to read:

30 25351.3. In addition to its other powers and duties, the board of  
31 supervisors may do any or all of the following:

32 (a) Acquire land for and construct, lease, sublease, build,  
33 furnish, refurnish, or repair buildings for ~~municipal~~ or superior  
34 courts and for convention and exhibition halls, trade and industrial  
35 centers, auditoriums, opera houses, music halls and centers, motion  
36 picture and television museums, and related facilities used for  
37 public assembly purposes for the use, benefit and enjoyment of the  
38 public, including offstreet parking places for motor vehicles, ways  
39 of ingress and egress, and any other facilities and improvements  
40 necessary or convenient for their use.

41 (b) Acquire land and construct buildings, structures and  
42 facilities thereon, in whole or in part, with county funds or it may,  
43 by contract or lease with any nonprofit association or corporation,



1 provide for the acquisition of land or the construction of buildings,  
2 structures and facilities, or all or any part thereof, for public  
3 assembly purposes, upon the terms the board may determine.

4 (c) Lease, pursuant to Section 25371, any real property owned  
5 by the county and available for public assembly purposes to any  
6 person, firm, corporation, or nonprofit association or corporation  
7 for public assembly purposes, with the person, firm, corporation, or  
8 nonprofit association or corporation to lease the real property, as  
9 improved, back to the county for use for the purposes stated in the  
10 lease. Any lease authorized by the board under this subdivision,  
11 except leases for ~~municipal~~ or superior courts, which may be  
12 entered into without advertising for bids, shall be awarded to the  
13 lowest responsible bidder after public competitive bidding  
14 conducted in the manner determined by the board. Notice inviting  
15 bids shall be published pursuant to Section 6066 in a newspaper as  
16 the board may direct.

17 (d) Enter into a lease or sublease, without advertising for bids  
18 therefor, of buildings, structures, and facilities or any of them with  
19 any nonprofit association or corporation which agrees to use the  
20 buildings, structures, and facilities so leased to it for the public  
21 assembly purposes for which they were or are to be built; or  
22 contract, without advertising, for bids with any nonprofit  
23 association or corporation for the maintenance, operation, and  
24 management of the buildings, structures, and facilities, or any part  
25 thereof used for public assembly purposes, including the  
26 scheduling and promotion of events therein, for a specified term,  
27 not to exceed 40 years, upon terms and conditions as may be  
28 agreed upon. The leases, subleases, or contracts shall provide that,  
29 at least annually, there shall be paid to the county the net revenue,  
30 if any, from the operation and use of the facilities, remaining after  
31 the payment of expenses and costs, if any, for maintenance,  
32 operation or management, interest, and principal payments upon  
33 loans to the nonprofit corporation or association for purposes of  
34 maintenance, operation, or management, and any other expenses,  
35 and after providing maintenance and operation reserves. The lease,  
36 sublease, or contract shall also provide that, upon its expiration, all  
37 of the assets of the nonprofit association or corporation after  
38 payment or discharge of its indebtedness and liabilities shall be  
39 transferred to the county.

40 (e) If the county has a population in excess of 4,000,000, without  
41 advertising for bids therefor, grant any real property owned by the  
42 county, or lease, for a term not to exceed 99 years, any real property  
43 owned by the county, to any city, district, or other public entity for  
44 any of the above public assembly purposes, without consideration,  
45 except the agreement of the grantee or lessee to use the real  
46 property for the public assembly purposes specified, and upon  
47 terms and conditions which may be agreed upon by the board and  
48 the grantee or lessee.

1           The amendment to this section enacted by Chapter 755 of the  
2 Statutes of 1963 shall not be construed to ~~affect or modify the~~ have  
3 affected or modified the then-existing duty of any county or board  
4 of supervisors to provide adequate quarters for ~~courts~~ but is courts.  
5 That amendment was intended to provide an alternative method of  
6 financing the acquisition of property and buildings for use for  
7 courthouse purposes.

8           The tentative recommendation should include a Note soliciting comments on this  
9 provision, as follows:

10           **Note.** Section 25351.3(c) permits a board of supervisors to enter  
11 into certain types of leases. Any lease so authorized shall be  
12 awarded to the lowest responsible bidder after public competitive  
13 bidding, *except* a lease for a trial court, “which may be entered into  
14 without advertising for bids ....” Is this exception from the public  
15 competitive bidding process obsolete? If so, why?

16           **The Commission welcomes comments on any aspect of this**  
17 **tentative recommendation, but it would especially appreciate**  
18 **comments on this matter.**

19           **Authority to Dedicate Unused Parkland for a Court Facility (Gov’t Code §**  
20 **25560.4)**

21           Government Code Section 25560.4 should be amended along the following  
22 lines:

23           **§ 25560.4 (amended). Dedication of unused parkland for court**  
24 **facility**

25           SEC. \_\_\_\_\_. Section 25560.4 of the Government Code is amended  
26 to read:

27           25560.4. The board of supervisors of any county may, by a four-  
28 fifths vote of the members, use or dedicate any portion of any land  
29 acquired by the county by means of special assessment proceedings  
30 for park purposes, for the erection and maintenance of one or more  
31 buildings to house ~~any municipal or a superior court, or one or~~  
32 ~~more departments or divisions of any one or more of such courts~~  
33 thereof, if the portion of the land to be so used or dedicated has not  
34 been used by the public for park purposes for a period of more  
35 than 10 years.

36           **Comment.** Section 25560.4 is amended to reflect unification of  
37 the municipal and superior courts pursuant to former Article VI,  
38 Section 5(e), of the California Constitution.

39           The tentative recommendation should include a Note soliciting comments on this  
40 amendment, as follows:

1       **Note.** In specified circumstances, Section 25560.4 authorizes a  
2 county to dedicate unused parkland “for the erection and  
3 maintenance of one or more buildings to house any ... superior  
4 court, or one or more departments or divisions” of such a court.  
5 Counties are no longer responsible for providing court facilities, so  
6 this grant of authority might not be used much in the future. See  
7 Sections 70311-70312 (responsibility for court operations &  
8 facilities), 70391 (Judicial Council responsibility & authority for  
9 court facilities).

10       Should Section 25560.4 be repealed instead of amended as shown  
11 above? Are there circumstances in which it would remain useful?

12       **The Commission welcomes comments on any aspect of this**  
13 **tentative recommendation, but it would especially appreciate**  
14 **comments on this matter.**

15       *(Commissioner Miller-O'Brien was not present for these decisions.)*

16       **County Penalties (Gov't Code §§ 76000-76252)**

17       *Government Code Section 76000*

18       Government Code Section 76000 should be amended as shown on pages 28-  
19 30 of Memorandum 2018-31. The tentative recommendation should include a  
20 Note soliciting comments on the amendment, along the following lines:

21       **Note.** The above amendment would just correct an erroneous  
22 cross-reference. Are any further revisions of Section 76000 in order  
23 to reflect trial court restructuring? In particular, should the table in  
24 subdivision (e) be updated, and, if so, how? For discussion of this  
25 matter, see Memorandum 2018-31, pp. 27-28; First Supplement to  
26 Memorandum 2018-31, pp. 2-5.

27       **The Commission welcomes comments on any aspect of this**  
28 **tentative recommendation, but it would especially appreciate**  
29 **comments on this matter.**

30       *(Commissioner Miller-O'Brien abstained from these decisions.)*

31       *Government Code Sections 76100 and 76101*

32       At present, Government Code Sections 76100 and 76101 do not appear to  
33 require any revisions to reflect trial court restructuring. They should not be  
34 included in the tentative recommendation.

1 *Government Code Section 76106*

2 The tentative recommendation should solicit comments on Government Code  
3 Section 76106 as discussed at pages 7-8 of the First Supplement to Memorandum  
4 2018-31.

5 *(Commissioner Mack was not present for this decision.)*

6 *Government Code Section 76110*

7 The tentative recommendation should solicit comments on Government Code  
8 Section 76110 as discussed at pages 8-10 of the First Supplement to  
9 Memorandum 2018-31.

10 *(Commissioner Mack was not present for this decision.)*

11 **STUDY L-3032.1 — REVOCABLE TRANSFER ON DEATH DEED: FOLLOW-UP STUDY**

12 The Commission considered Memorandum 2018-33 and its First Supplement,  
13 discussing the Revocable Transfer on Death Deed (“RTODD”).

14 The Commission’s decisions are described below.

15 **Disclaimer**

16 The staff indicated that future memoranda in this study will begin with a  
17 disclaimer making clear that the Commission’s analysis of specific issues does  
18 not indicate that the Commission has made any decision on whether the RTODD  
19 should be repealed by operation of its sunset provision. The Commission  
20 concurred.

21 **Residential Property Limitation**

22 The RTODD statute should continue to limit the property that can be  
23 transferred by RTODD to residential property. However, the provision that  
24 establishes the limitation (Probate Code Section 5610) needs to be revised to  
25 address the following technical problems:

- 26 • Terminology should be standardized and, to the extent practicable,  
27 refer to facts that are determinable from public records.
- 28 • The rule in Section 5610(a) needs to be revised so that it does not  
29 undermine the rules in Section 5610(b) and (c).
- 30 • As a general matter, the law should permit the RTODD to transfer  
31 any residential interest in a common interest development, and not  
32 just a condominium unit.

- 1       • However, the staff should investigate whether there are good  
2 reasons to exclude some kinds of interests in a common interest  
3 development (e.g., transfer of a unit in a stock cooperative that  
4 requires board approval of any conveyance, transfer to a person  
5 who would not be permitted to occupy the unit under an age  
6 restriction).
- 7       • The residential property limitation should be evaluated at the time  
8 of execution of an RTODD, not the time of its operation.

9       *(Commissioner Mack was not present when these decisions were made.)*

#### 10   **Legal Entities as Beneficiaries**

11       The Commission directed the staff to contact stakeholders and request  
12 comment on whether the law should permit a legal entity to be named as  
13 beneficiary. The request should specifically request comment on the following  
14 issues:

- 15       • Are there problems associated with naming the trustee of a  
16 revocable inter vivos trust as beneficiary? The trustee of an  
17 irrevocable trust?
- 18       • If a legal entity is named as beneficiary and that entity cannot or  
19 does not wish to accept the property, existing law permits the  
20 beneficiary to disclaim the gift. Is there any reason that would not  
21 be a sufficient resolution of the matter?
- 22       • Are there legal restrictions on a public entity's ability to accept a  
23 donative transfer of real property? Chairperson Hallinan and  
24 Commissioner King may be able to provide information on this  
25 point.

#### 26   **Property Return Provision (Probate Code Section 5676)**

27       The Commission will tentatively recommend the repeal of Probate Code  
28 Section 5676 and specifically request public comment on the merits of that  
29 reform.

#### 30       STUDY L-4130 — DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

31       The Commission considered three memoranda discussing various aspects of  
32 certain Probate Code Procedures that permit the disposition of a decedent's  
33 estate without administration ("probate avoidance procedures").

1 **Interest Rate**

2 The Commission considered Memorandum 2018-34, presenting a draft final  
3 recommendation on changes to the interest that is charged under certain parts of  
4 the probate avoidance procedures.

5 The Commission approved the draft, with the footnote change proposed on  
6 page 2 of the memorandum, as a final recommendation.

7 **Dollar Amounts**

8 The Commission considered Memorandum 2018-36, presenting a draft final  
9 recommendation on adjusting the dollar amounts that prescribe the application  
10 of certain probate avoidance procedures.

11 The Commission approved the draft as a final recommendation subject to the  
12 following decisions:

- 13 • Proposed Probate Code Section 890 was revised, as described on  
14 page 2 of the memorandum.
- 15 • No change was made to the cross-reference in Probate Code  
16 Section 13602, as proposed on page 3 of the memorandum.
- 17 • The staff will adjust the dollar amounts to reflect cost-of-living  
18 changes through 2018, as described on page 3 of the  
19 memorandum.

20 **Property Return Provisions**

21 The Commission considered Memorandum 2018-37, discussing the creditor  
22 claim processes used in certain probate avoidance procedures. Under those  
23 procedures, a personal representative can require property transferred without  
24 administration to be returned to the estate for payment of creditor claims or  
25 satisfaction of a superior claim. The memorandum discussed the reimbursement  
26 of a property recipient for value that the recipient added to the decedent's estate,  
27 prior to property being returned to the estate under Probate Code Sections 13111,  
28 13206, and 13562.

29 The Commission made the following decisions about those provisions:

- 30 • The estate should reimburse a recipient of property that is  
31 returned to the estate if the recipient made any contribution  
32 toward the value of the property and that value accrued to the  
33 estate. The staff will develop draft language to implement this  
34 principle.
- 35 • The recipient should be reimbursed for any amount that the  
36 recipient paid toward a decedent debt that was secured against the

- 1 property when the transferor died. That rule should apply  
2 regardless of whether the recipient improved the property before  
3 it was returned to the estate.
- 4 • Funds that are required to be reimbursed should not be considered  
5 part of the decedent's estate and should not be used by the estate  
6 to pay any of the decedent's other obligations.

7 STUDY T-100 — TECHNICAL AND MINOR SUBSTANTIVE IMPROVEMENTS

8 The Commission considered Memorandum 2018-35, discussing technical  
9 corrections to Health and Safety Code Section 131052.

10 The Commission directed the staff to prepare a staff draft tentative  
11 recommendation based on the language presented in the memorandum.

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