

6/20/77

Memorandum 77-45

Subject: Amendment of Statute Governing Law Revision Commission

From time to time, the Commission is made aware of technical defects or new developments in connection with legislation enacted upon Commission recommendation. As a matter of practice, the Commission has retained a topic on its agenda for a time after recommended legislation has been enacted so that it can submit any needed corrective or supplemental legislation since Government Code Section 10335 provides that the Commission shall restrict its study to those topics listed in the concurrent resolution adopted at the last preceding legislative session.

In the past, when a topic has been dropped from the Commission's agenda and a technical defect has come to the Commission's attention, the Commission has prepared a bill for one of its legislative members to introduce to correct the defect. This is not always a satisfactory solution, however, because in some cases a recommendation explaining the need for the corrective bill would be very useful but clearly beyond the Commission's authority under Government Code Section 10335. In addition, the staff is placed in the position of explaining at committee hearings a bill not recommended by the Commission since the legislative member carrying the bill expects that the staff will perform this task.

The staff believes that the Commission should give consideration to seeking an amendment of the statute which governs the Commission to eliminate the need to continue to list in the concurrent resolution topics that are carried on the agenda merely so that technical defects can be corrected.

In our last Annual Report, the Commission listed seven topics that were ones on which legislation had been enacted and the topic was continued so that supplemental or corrective legislation could be recommended if needed. These topics could be dropped from the agenda (together with two more if the liquidated damages bill is enacted) if the following amendment to Government Code Section 10335 were enacted:

10335. (a) The commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of studies in progress and a list of topics intended for future consideration.

After the filing of its first report Except as provided in subdivisions (b) and (c), the commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report which are thereafter approved for its study by concurrent resolution of the Legislature.

(b) The commission shall also study any topic which the Legislature, by concurrent resolution, refers to it for such study.

(c) The report filed by the commission at each regular session of the Legislature shall also contain a listing of legislation enacted upon recommendation of the commission, and the commission may continue its study of the legislation so listed with a view to recommending such amendments, repeals, or additions as are necessary to correct defects in such legislation or to deal with new developments relevant to such legislation.

If the Commission concludes that this would be a desirable amendment, the staff will check with the Commission's legislative members, judiciary committee chairmen, and the Department of Finance to determine whether there would be any political problems if such an amendment were proposed for enactment in 1978.

Respectfully submitted,

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Executive Secretary