

First Supplement to Memorandum 2006-10

Technical and Minor Substantive Statutory Corrections (Discussion of Issues)

This supplement discusses two more minor substantive or technical statutory defects. Again, the Commission will need to decide how it wants to treat each issue for purposes of a tentative recommendation.

CIVIL CODE SECTION 1812.515

Civil Code Section 1812.515, relating to job listing services, contains what appear to be a typographical omission and a typographical error, indicated below in bold. The section reads:

1812.515. (a) Every job listing service subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be ten thousand dollars (\$10,000) for each location. A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any **violation of misrepresentation**, deceit, unlawful **acts of omissions**, or failure to provide the services of the job listing service in performance of the contract with the jobseeker, by the job listing service or its agent, representatives, or employees while acting within the scope of their employment.

....

Section 1812.515 is part of a title in the Civil Code (Title 2.91) known and cited as the Employment Agency, Employment Counseling, and Job Listing Services Act. The title contains sections setting forth largely parallel bonding requirements for employment agencies (Section 1812.503), employment counseling services (Section 1812.510), and job listing services (Section 1812.515). The staff recommends that **Section 1812.515 be amended so that the language in**

subdivision (b) mirrors the existing language in the corresponding subdivisions of the other two referenced statutes:

Civ. Code § 1812.515 (amended). Bonding requirement for job listing service

1812.515. (a) Every job listing service subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be ten thousand dollars (\$10,000) for each location. A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts of or omissions, or failure to provide the services of the job listing service in performance of the contract with the jobseeker, by the job listing service or its agent, representatives, or employees while acting within the scope of their employment.

....

Comment. Subdivision (b) of Section 1812.515 is amended to correct typographical mistakes. This is not a substantive change. For provisions with similar language, see Sections 1812.503 (bonding requirement for employment agency) and 1812.510 (bonding requirement for employment counseling service).

GOVERNMENT CODE SECTION 26801

As part of the Commission's 2002 trial court restructuring bill, Government Code Section 26800 was repealed. 2002 Cal. Stat. ch. 784, § 180. The former section, which was the lead section of a chapter in the Government Code, read:

26800. The county clerk shall act as clerk of the superior court in and for his or her county. However, in any county in which a superior court executive officer has been appointed pursuant to Section 69898, the term "county clerk" shall mean the superior court executive officer to the extent that the superior court, by local rule, has delegated any duties of the county clerk to the superior court executive officer.

However, this repealed section provided the context for Section 26801, the next (and now lead) section in the chapter, which continues to read:

26801. Except as otherwise provided by law, he shall act as clerk of the board of supervisors in his county.

The staff recommends that **Section 26801 be amended to clarify the currently ambiguous reference in the section:**

Gov't Code § 26801 (amended). County clerk as clerk of board of supervisors

26801. Except as otherwise provided by law, ~~he~~ the county clerk shall act as clerk of the board of supervisors in ~~his~~ the county.

Comment. Section 26801 is amended to reflect the repeal of Section 26800 and to make the provision gender neutral.

Respectfully submitted,

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