

MEMORANDUM 2024-21

**Minutes of Meeting on May 2, 2024 (Draft)**

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The California Law Revision Commission held a meeting on May 2, 2024, in Sacramento and by zoom teleconference.<sup>1</sup>

A draft of Minutes for the May 2, 2024, meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

The Bagley-Keene Open Meeting Act provides that attendees cannot be required to identify themselves.<sup>2</sup> As a means of observing that rule for teleconference attendees, the attendee list only includes teleconference attendees who have affirmatively consented to being identified in the Minutes, as part of the teleconference registration process required for those who wish to attend the meeting.

Respectfully submitted,

Sharon Reilly  
Executive Director

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<sup>1</sup> Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

<sup>2</sup> Gov't Code § 11124.

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***DRAFT* MINUTES OF MEETING**  
**CALIFORNIA LAW REVISION COMMISSION**

May 2, 2024

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A meeting of the California Law Revision Commission was held in Sacramento and via teleconference on May 2, 2024.

ATTENDANCE

**Commission**

*Present*    Amb. (r.) David Huebner, Chairperson  
              David A. Carrillo  
              Cara Jenkins, Legislative Counsel  
              Victor King  
              Richard Simpson

*Absent*     Xochitl Carrion, Vice-Chairperson  
              Maria Bee  
              Ana Cubas  
              Assembly Member Ash Kalra  
              Senator Richard D. Roth

**Staff**

Sharon Reilly, Executive Director  
Kristin Burford, Chief Deputy Director  
Steve Cohen, Staff Counsel  
Sarah Huchel, Staff Counsel  
Debora Larrabee, Chief of Administrative Services  
Megan Hayenga, Office Technician

**Antitrust Experts**

Prof. Aaron Edlin, Working Group 1  
Dean Harvey, Working Group 7  
Cheryl Johnson, Consultant to Commission and Working Group 7  
Prof. Doug Melamed, Working Group 1  
Prof. Sam Miller, Working Group 1  
Prof. Fiona Scott Morton, Working Group 1  
Diana Moss, Working Group 7  
Prof. Barak Richman, Working Group 7  
Shana Scarlett, Working Group 7  
Prof. Carl Shapiro, Working Group 1

**Invited Speakers**

California Alliance for a Fair Economy: Professor Marshall Steinbaum  
and Sheheryar Kaosji  
United Food and Commercial Workers Western States Council:  
Michael Strumwasser and Kathy Finn  
California Chamber of Commerce: Eric Enson  
Netchoice: Professor Tom Campbell

**Other Attendees<sup>1</sup>**

June Barlow	Mona Masri
Bianca Blomquist	Teri Olle
Khara Boender	Andrea Ordin
Betsy Butler	Noel Philips
Monica Deka	Whitney Prout
Abiel Garcia	Mike Rabourn
Julianna Gesiotto	Solana Rice
Devon Gray	Dan Robbins
Jason Ikerd	Bilal Sayyed
Garrett Jensen	Natalie Schuman
Loren Kaye	Robert Singleton
Laurel Kilgour	Levi Sumagaysay
Ron Knox	Bruce Wick
John Kwoka	Alex Wilts
Andy Lamb	Anthony Wright
Peter Leroe-Muñoz	Alissa Yum
Andi Liebenbaum	

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<sup>1</sup> Members of the public are only identified in the Minutes as attendees if they expressly consented to being identified either when registering to attend via teleconference or by completing the voluntary visitor register at an in-person meeting location.

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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 is noted below.

MINUTES

The Commission considered Memorandum 2024-10, presenting draft Minutes of the February 15, 2024, meeting.

The Commission approved the Minutes without change.

ADMINISTRATIVE MATTERS

**Report of the Executive Director**

The Executive Director reported on the following matters:

- Thank you to Commissioner Jenkins for the work of her staff on the ongoing IT migration.
- Staff continues to monitor ongoing the status of the proposed Budget Act of 2024.
- Two public comments relating to the Antitrust Law Study (B-750) were received too late to be provided to the Commissioners and will be provided in a subsequent memorandum.

**Commissioner Suggestions**

There were no suggestions made by Commissioners.

**Updates on Open Meeting Laws and Meeting Schedule**

The Commission considered Memorandum 2024-11 and made the following decisions:

- Consistent with the Bagley-Keene Open Meeting Act Guide issued by the CA Department of Justice for 2024, the Commission decided to amend the Commission Handbook to make clear that the Commission views itself as an

advisory body for the purposes of the teleconferencing authority provided by Government Code Section 11123.5 (until that section is repealed effective January 1, 2026). The staff will bring implementing language back for the Commission to approve at a future meeting.

- The Commission decided to change to its meeting schedule for 2024 as follows:
  - Remove the September and November meetings from the schedule;
  - List all meeting as hybrid (teleconference and in-person) with staff determining when to recommend Commissioners attend in person; and
  - The physical location for Commission meetings will be Sacramento.

### 2024 LEGISLATIVE PROGRAM

The Commission considered Memorandum 2024-12, presenting the Commission’s 2024 legislative program.

No Commission decisions were required or made.

### STUDY B-750 — ANTITRUST LAW

The Commission considered the following memoranda:

- Memorandum 2024-13, presenting a status update for this study, and Supplements 1 to 4 thereto,
- Memorandum 2024-14, presenting the expert report on Concentration in California, and
- Memorandum 2024-15, presenting the expert report on Single Firm Conduct.

The Commission heard presentations from the expert working groups on the reports addressing Concentration in California and Single Firm Conduct.

No Commission decisions were required or made.

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

The Commission considered Memorandum 2024-18, presenting a status update for this study.

No Commission decisions were required or made.

### STUDY H-109 — LANDLORD-TENANT TERMINOLOGY

The Commission considered Memorandum 2024-19 and its First Supplement, presenting an analysis of whether continued use of the terms “landlord” and “tenant”

(including related terms including “covenant” and “subtenant”) in California code provisions involving rental of residential real property is “useful and appropriate.”

The Commission concluded that use of those terms in those provisions satisfies that specified standard at this time, and the terms should continue to be used in those provisions.

The Commission also considered Memorandum 2024-20, discussing terminology used in the laws of other states to describe the parties to an agreement, lease, or other contract for the rental of residential real property.

No Commission decisions were required or made relating to Memorandum 2024-20.

#### STUDY I-100 — EQUAL RIGHTS AMENDMENT

The Commission considered Memorandum 2024-16, presenting an initial draft of legislative language for a provision describing the scope of sex discrimination. With respect to the draft, the Commission discussed the following issues:

- Tradeoffs between a single uncodified provision and codification of the provision in each code.
- Interest in possible inclusion of a notwithstanding clause.
- Constitutional limitations on amendments by reference and possible inclusion of cross-references to this provision in existing discrimination laws.
- Avoidance of references to federal law in the legislative language and Commission Comment.
- Adjustment of subdivision (c) in the draft legislative language to better reflect the intended relationship of the rule and existing California Constitution provisions.

Based on that discussion, the staff will conduct further research and work on revised language for consideration at a future meeting.

The Commission also considered Memorandum 2024-17, providing updates on related cases and discussing the second phase of this study, evaluating California laws to identify and remedy defects (i.e., provisions that have discriminatory language or disparate impacts relating to sex).

The Commission discussed the proposal, discussed in Memorandum 2024-17, to identify and amend statutes containing specified gender-biased terms. In light of the Office of Legislative Counsel efforts, consistent with 2018 Cal. Stat. ch. 190 (ACR 260 (Low 2018)), to revise existing statutes and introduce new legislation with inclusive language, the Commission did not direct staff to move forward with a proposal to remove and replace these terms in the codes. The Commission recommended that the staff keep a list of gender-

biased terms and possible substitute language for Commission drafting purposes.

No Commission decisions were required or made in connection with this study.

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