

Memorandum 2020-3

2020 Legislative Program (Status Report)

This memorandum provides a status report on Commission-related legislation in 2020.¹ The staff has found authors for all of the Commission's pending recommendations, but has not yet found an author for the Commission's resolution of authority.

Revocable Transfer on Death Deed: Follow-Up Study

Senator Richard Roth has agreed to author legislation to implement the recommendation on *Revocable Transfer on Death Deed: Follow-Up Study* (Nov. 2019). There are no new developments on this proposal that require discussion or decision.

CALIFORNIA PUBLIC RECORDS ACT

Assembly Member Ed Chau has agreed to author legislation to implement two related recommendations:

- *California Public Records Act Clean-Up* (Nov. 2019)
- *California Public Records Act Clean-Up: Conforming Revisions* (Nov. 2019).

In preparing the bill draft for the second recommendation, the staff made the following revisions of the proposed legislation:

- (1) Welfare and Institutions Code Section 14105.8(k)(4) currently says that "[i]f the date of mailing of a state rebate payment is 69 days of more from the date of mailing of the invoice, ... the interest rate shall be as specified in paragraph (3)" (Emphasis added.) In the conforming revision of this section, the staff corrected this

1. 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). 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.

typographical error (replacing “69 days of more” with “69 days or more”).

- (2) In the proposed uncodified sections at the end of the bill (the contingent operative date and the subordination clause), the staff replaced “January 1, 2021” with “January 1, 2022,” to match the delayed operative date in the recodification bill.

The staff recommends that the recommendation be conformed to those technical changes. This is possible because the recommendation is not yet in final published form. **The staff also proposes that those actions be approved as consent items** (i.e., approved without discussion or vote, unless a Commissioner requests otherwise).

STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING

Assembly Member Brian Maienschein has agreed to author legislation to implement four related recommendations:

- *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities* (May 2019).
- *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees* (Feb. 2019).
- *Trial Court Restructuring Clean-Up: Obsolete “Constable” References* (Oct. 2018) (proposed amendment of Corp. Code § 14502 only; other proposed amendments may require an initiative measure).
- *Trial Court Restructuring Clean-Up: Obsolete References to Marshals* (Nov. 2019).

Some issues related to the language of the implementing bill draft are discussed below.

Wording

The bill draft differs in the following respects from the statutory text approved by the Commission:

- (1) As amended, Government Code Section 74820.1 would read: “This article applies to *the* court security functions and service of process and notice functions in the sheriff’s office.”² The italicized “the” was not included in the version approved by the Commission.
- (2) Government Code Section 77655 currently begins with the phrase “Notwithstanding any other *provision of law.*”³ To conform to

2. Emphasis added.

3. Emphasis added.

Legislative Counsel’s current drafting practice, the bill draft proposes to shorten that to “Notwithstanding any other law.”

- (3) The uncodified savings clause includes the phrase “including but not limited to.” To conform to Legislative Counsel’s drafting practice, a comma was inserted after the word “including.”

The staff proposes that the Commission’s recommendations be revised to conform to the bill draft on those technical points. This is possible because the recommendations are still not in final published form. **The staff also proposes that those actions be approved as consent items** (i.e., approved without discussion or vote, unless a Commissioner requests otherwise).

Form of Revision

In the Commission’s proposed legislation, two article headings would be *amended* to change their content.

The staff has since learned that the Legislative Counsel’s preferred drafting practice in this situation is to *repeal* the headings and then *add* them with the proposed new content.

The bill draft has been prepared in that form. **The staff again recommends, as a proposed consent item, that the Commission’s recommendations be revised to conform to the bill draft.**

That would mean deleting the following language from the recommendation:

Heading of Article 1.8 (commencing with Section 26639) (amended)

SEC. _____. The heading of Article 1.8 (commencing with Section 26639) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code is amended to read:

Article 1.8. ~~Sheriff Marshal Consolidation~~ Court Security in Los Angeles County

Comment. The heading of Article 1.8 is amended to delete an obsolete reference to the consolidation of the marshal’s office and the sheriff’s office in Los Angeles County, which became effective in 1994, more than twenty-five years ago.

Heading of Chapter 10 (commencing with Section 73301) (amended)

SEC. _____. The heading of Chapter 10 (commencing with Section 73301) of Title 8 of the Government Code is amended to read:

CHAPTER 10. ~~OTHER MUNICIPAL COURTS DISTRICTS COUNTY-~~
SPECIFIC PROVISIONS

Comment. The heading of Chapter 10 is amended to properly reflect the current content of the chapter. Municipal courts as separate entities no longer exist. They were eliminated through trial court unification, which occurred on a county-by-county basis. See former Cal. Const. art. VI, Section 5(e). The last remaining municipal courts were eliminated on February 8, 2001, when the trial courts in Kings County unified their operations in the superior court.

The deleted language would then be replaced with the following language:

**Heading of Article 1.8 (commencing with Section 26639)
(repealed)**

SEC. _____. The heading of Article 1.8 (commencing with Section 26639) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code is repealed.

~~Article 1.8. Sheriff Marshal Consolidation~~

Comment. The heading of Article 1.8 is repealed as obsolete. The consolidation of the marshal's office and the sheriff's office in Los Angeles County became effective in 1994, more than twenty-five years ago.

Heading of Article 1.8 (commencing with Section 26639) (added)

SEC. _____. The heading of Article 1.8 (commencing with Section 26639) is added to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, to read:

Article 1.8. Court Security in Los Angeles County

Comment. The heading of Article 1.8 is updated to reflect the consolidation of the marshal's office and the sheriff's office in Los Angeles County, which became effective in 1994, more than twenty-five years ago.

**Heading of Chapter 10 (commencing with Section 73301)
(repealed)**

SEC. _____. The heading of Chapter 10 (commencing with Section 73301) of Title 8 of the Government Code is repealed.

~~CHAPTER 10. OTHER MUNICIPAL COURTS DISTRICTS~~

Comment. The heading of Chapter 10 is repealed as obsolete. Municipal courts as separate entities no longer exist. They were

eliminated through trial court unification, which occurred on a county-by-county basis. See former Cal. Const. art. VI, Section 5(e). The last remaining municipal courts were eliminated on February 8, 2001, when the trial courts in Kings County unified their operations in the superior court.

Heading of Chapter 10 (commencing with Section 73301) (added)

SEC. _____. The heading of Chapter 10 (commencing with Section 73301) of Title 8 of the Government Code is added, to read:

CHAPTER 10. COUNTY-SPECIFIC PROVISIONS

Comment. The heading of Chapter 10 is updated to properly reflect the current content of the chapter. Municipal courts as separate entities no longer exist. They were eliminated through trial court unification, which occurred on a county-by-county basis. See former Cal. Const. art. VI, Section 5(e). The last remaining municipal courts were eliminated on February 8, 2001, when the trial courts in Kings County unified their operations in the superior court.

Subordination Clause

On the staff's initiative, a subordination clause was included in the bill draft. A subordination clause is a special kind of provision that is used to ensure that a large technical bill does not inadvertently "chapter out" (i.e., nullify) provisions in other bills that affect the same code sections as the bill with the subordination clause. In other words, the bill with the subordination clause is made subordinate to all other bills. That result can also be achieved through case-by-case amendments to resolve every bill conflict that arises, but when a bill is very large it is much easier to handle the matter globally and come back the next year to reintroduce any provisions that were negated by the subordination clause. **Is the addition of a subordination clause acceptable to the Commission?**

RESOLUTION OF AUTHORITY

Government Code Section 8293 provides:

8293. (a) The commission shall file a report at each regular session of the Legislature that shall contain a calendar of topics selected by it for study, including a list of the studies in progress and a list of topics intended for future consideration. The commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report that have been or are thereafter approved for its study by concurrent resolution of the

Legislature. The commission shall also study any topic that the Legislature, by concurrent resolution or statute, refers to it for study.

(b) The committee shall prepare an annual report that describes its work in the prior calendar year and its expected work for the subsequent calendar year.

The staff is looking for, but has not yet found, an author willing to introduce a concurrent resolution consistent with subdivision (a). If that is not possible, the resolution can be introduced next year without the delay causing any harm.

Respectfully submitted,

Brian Hebert
Executive Director