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MINUTES OF MEETING  
CALIFORNIA LAW REVISION COMMISSION  
JUNE 9, 2011  
SACRAMENTO

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A meeting of the California Law Revision Commission was held in Sacramento on June 9, 2011.

**Commission:**

*Present:* Justice John Zebrowski (ret.), Chairperson  
Stephen Murphy, Vice-Chairperson  
Damian D. Capozzola  
Mark Dundee  
Pamela L. Hemminger

*Absent:* Roger Dickinson, Assembly Member  
Tom Harman, Senate Member  
Diane Boyer-Vine, Legislative Counsel  
Sidney Greathouse  
Susan Duncan Lee

**Staff:** Brian Hebert, Executive Director  
Barbara Gaal, Chief Deputy Counsel  
Steve Cohen, Staff Counsel  
Louis Wai, Summer Fellow (U.C. Davis School of Law)

**Consultants:** None

**Other Persons:**

Hester Bryant, Office of State Long-Term Care Ombudsman  
Lindsey Scott-Florez, Senate Office of Research  
Brent Kocal, Kocal Properties, Inc.  
Rand Martin, California Charter Schools Association  
Greg Moser, California Charter Schools Association  
Jacquelyn Paige, AARP Executive Council  
Theresa Renken, Alzheimer's Association  
Peter S. Stern, State Bar Trusts and Estates Section Executive Committee

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MINUTES OF APRIL 14, 2011, COMMISSION MEETING

1 The Commission approved the Minutes of the April 14, 2011, Commission  
2 meeting as submitted by the staff.

ADMINISTRATIVE MATTERS

3 **Report of Executive Secretary**

4 The Executive Secretary reported on the following matters:

- 5 (1) The May Revision of the Governor’s proposed budget would  
6 eliminate the Commission, effective January 1, 2012. However, the  
7 relevant budget subcommittees in both houses have voted  
8 unanimously against eliminating the Commission, instead  
9 proposing to fund the next year of Commission operations with  
10 reimbursements from the Legislative Counsel’s budget.
- 11 (2) Louis Wai is working for the Commission as a Summer Fellow.  
12 Mr. Wai has just completed his first year at U.C. Davis School of  
13 Law.

LEGISLATIVE PROGRAM

14 The Commission considered Memorandum 2011-20 and its First Supplement,  
15 reporting generally on the Commission’s 2011 legislative program.

16 The Commission considered a suggestion that it conduct a follow-up study of  
17 possible minor improvements to the language used in the recommendation on  
18 *Statutory Clarification and Simplification of CID Law* (Feb. 2011). The Commission  
19 will evaluate that suggestion later in the year, when it reviews possible new  
20 topics and priorities for 2012.

1           STUDY G-200 — CHARTER SCHOOLS AND THE GOVERNMENT CLAIMS ACT

2           The Commission considered Memorandum 2011-22, presenting a staff draft  
3 tentative report on the legal and policy implications of treating charter schools as  
4 public entities for the purposes of the Government Claims Act.

5           The Commission approved the staff draft for public distribution, subject to  
6 the decisions described below.

7           **Scope of Hybrid Approach**

8           The Commission made two different decisions regarding the language set out  
9 on page 41 of the staff draft, at lines 24 to 26, which reads as follows:

10                   If a claim against a charter school is a type of claim that can only  
11                   be brought against a school that is part of the public school system,  
12                   the claim is subject to Division 3.6 (commencing with Section 810)  
13                   of Title 1 of the Government Code.

14           The Commission first decided to revise the provision along the following  
15 lines:

16                   If a claim against a charter school is a type of claim that can only  
17                   be brought against a school that is part of the public school system,  
18                   including a charter school, the claim is subject to Division 3.6  
19                   (commencing with Section 810) of Title 1 of the Government Code.

20           The purpose of that revision was to make clear that the provision would apply to  
21 a type of claim that can only be brought against a charter school.

22           The Commission then decided to revise the provision along the following  
23 lines:

24                   If a claim against a charter school is a type of claim that can only  
25                   be brought against a school if that school is part of the public school  
26                   system, the claim is subject to Division 3.6 (commencing with  
27                   Section 810) of Title 1 of the Government Code.

28           The purpose of that revision was to make clear that the provision would apply to  
29 a claim that could also be brought against non-school public entities.

30           The Commission did not discuss how to harmonize those two changes to the  
31 provision.

32           **Technical Revision**

33           On page 31 of the staff draft, at lines 5 and 6, the Commission deleted the  
34 words “the chartering entity or.”

1     STUDY H-856 —COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENTS

2     The Commission considered pages one through 14 of Memorandum 2011-21,  
3     and the memorandum’s First and Second Supplements, presenting public  
4     comment on the tentative recommendation on *Commercial and Industrial Common*  
5     *Interest Developments* (Feb. 2011). The Commission will consider the balance of  
6     Memorandum 2011-21 at a future meeting.

7     The Commission made the following decisions:

- 8     • The Commission will immediately begin a separate study of the  
9     scope of application of Business and Professions Code Section  
10     11010.3 and Civil Code Section 1373.
- 11    • The Commission retained the following provisions in the  
12    proposed law: Civil Code Sections 6606, 6608, 6704, 6706, 6708,  
13    6712, 6718, 6722, 6870, 6874, and 6876.
- 14    • The Commission deleted the following provisions from the  
15    proposed law: Civil Code Sections 6760, 6810(a), and 6814(f).

16                     STUDY J-1452 — TRIAL COURT RESTRUCTURING:  
17                     WRIT JURISDICTION IN A SMALL CLAIMS CASE

18     The Commission considered Memorandum 2011-23, which presents a draft of  
19     a final recommendation, as well as the First Supplement to that memorandum.  
20     The members of the Commission had no suggested changes to the draft  
21     recommendation. To allow additional time for public comment, the Commission  
22     decided to reschedule the matter for further consideration at its August meeting.

23                     STUDY L-750 — UNIFORM ADULT GUARDIANSHIP AND  
24                     PROTECTIVE PROCEEDINGS JURISDICTION ACT

25     The Commission considered Memorandum 2011-24 and its First Supplement,  
26     relating to the Uniform Adult Guardianship and Protective Proceedings  
27     Jurisdiction Act (“UAGPPJA”), particularly the transfer procedure (Article 3) and  
28     the registration procedure (Article 4) and the potential implications of those  
29     procedures in California. Peter Stern of the Executive Committee of the State Bar  
30     Trusts and Estates Section (“TEXCOM”) reported on the progress of TEXCOM’s  
31     working group on UAGPPJA. Representatives of AARP (Jacquelyn Paige), the  
32     Alzheimer’s Association (Theresa Renken), and the State Long-Term Care  
33     Ombudsman (Hester Bryant) also participated in the discussion.

1 For the August meeting, the staff should further explore how California  
2 conservatorship law differs from comparable law in neighboring states (Arizona,  
3 Nevada, and Oregon), and examine the implications of those differences under  
4 UAGPPJA. The staff should also attempt to obtain additional information about  
5 how UAGPPJA's transfer procedure and the registration procedure are supposed  
6 to work. To the extent time permits, information on unusual conservatorship  
7 practices in other states would also be helpful.

8 STUDY T-103 — TECHNICAL AND MINOR SUBSTANTIVE CORRECTIONS: STATUTORY  
9 CROSS-REFERENCES TO "TORT CLAIMS ACT"

10 The Commission considered Memorandum 2011-25, discussing input on the  
11 tentative recommendation on *Technical and Minor Substantive Corrections:*  
12 *Statutory Cross-References to "Tort Claims Act."* Subject to revisions converting the  
13 proposal from a tentative to a final recommendation, the Commission approved  
14 the proposal as a final recommendation, for printing and submission to the  
15 Legislature.

APPROVED AS SUBMITTED

\_\_\_\_\_  
Date

APPROVED AS CORRECTED  
(for corrections, see Minutes of next meeting)

\_\_\_\_\_  
Chairperson

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Executive Secretary