

Assembly Concurrent Resolution

No. 17

Introduced by Assembly Member Wayne

February 25, 1999

Assembly Concurrent Resolution No. 17—Relative to the California Law Revision Commission.

LEGISLATIVE COUNSEL'S DIGEST

ACR 17, as introduced, Wayne. California Law Revision Commission: studies.

Under existing law, the California Law Revision Commission is required to study, and is limited to studying, those topics approved for its study by concurrent resolution of the Legislature.

This measure would grant approval to the commission to continue its study of designated topics that the Legislature previously authorized or directed the commission to study, would delete 5 topics that previously were approved by the Legislature for study by the commission, and would authorize the study of 4 new topics.

Fiscal committee: yes.

1 WHEREAS, The California Law Revision Commission
2 is authorized to study only topics set forth in the calendar
3 contained in its report to the Governor and the
4 Legislature that are thereafter approved for study by
5 concurrent resolution of the Legislature, and topics that
6 have been referred to the commission for study by
7 concurrent resolution of the Legislature; and

1 WHEREAS, The commission, in its annual report
2 covering its activities for 1998 and 1999, recommends
3 continued study of 16 topics, all of which the Legislature
4 has previously authorized or directed the commission to
5 study; and

6 WHEREAS, The commission, in its annual report
7 covering its activities for 1998 and 1999, recommends
8 removal of five topics, all of which the Legislature has
9 previously authorized or directed the commission to
10 study and which the commission either has completed
11 study of or found to be no longer appropriate for
12 commission study; and

13 WHEREAS, The commission, in its annual report
14 covering its activities for 1998 and 1999, recommends
15 addition of four new topics to its calendar; now, therefore,
16 be it

17 *Resolved by the Assembly of the State of California, the*
18 *Senate thereof concurring,* That the Legislature approves
19 for continued study by the California Law Revision
20 Commission the topics listed below, all of which the
21 Legislature has previously authorized or directed the
22 commission to study:

23 (1) Whether the law should be revised that relates to
24 creditors' remedies, including, but not limited to,
25 attachment, garnishment, execution, repossession of
26 property (including the claim and delivery statute,
27 self-help repossession of property, and the Commercial
28 Code provisions on repossession of property), civil arrest,
29 confession of judgment procedures, default judgment
30 procedures, enforcement of judgments, the right of
31 redemption, procedures under private power of sale in a
32 trust deed or mortgage, possessory and nonpossessory
33 liens, insolvency, and related matters;

34 (2) Whether the California Probate Code should be
35 revised, including, but not limited to, the issue of whether
36 California should adopt, in whole or in part, the Uniform
37 Probate Code;

38 (3) Whether the law should be revised that relates to
39 real and personal property, including, but not limited to,
40 a marketable title act, covenants, servitudes, conditions,



1 and restrictions on land use or relating to land,
2 possibilities of reverter, powers of termination, Section
3 1464 of the Civil Code, escheat of property and the
4 disposition of unclaimed or abandoned property,
5 eminent domain, quiet title actions, abandonment or
6 vacation of public streets and highways, partition, rights
7 and duties attendant upon assignment, subletting,
8 termination, or abandonment of a lease, powers of
9 appointment, and related matters;

10 (4) Whether the law should be revised that relates to
11 family law, including, but not limited to, community
12 property, the adjudication of child and family civil
13 proceedings, child custody, adoption, guardianship,
14 freedom from parental custody and control, and related
15 matters, including other subjects covered by the Family
16 Code;

17 (5) Whether the law relating to offers of compromise
18 should be revised;

19 (6) Whether the law relating to discovery in civil cases
20 should be revised;

21 (7) Whether the acts governing special assessments
22 for public improvement should be simplified and unified;

23 (8) Whether the law relating to the rights and
24 disabilities of minors and incompetent persons should be
25 revised;

26 (9) Whether the Evidence Code should be revised;

27 (10) Whether the law relating to arbitration should be
28 revised;

29 (11) Whether there should be changes to
30 administrative law;

31 (12) Whether the law relating to the payment and the
32 shifting of attorney's fees between litigants should be
33 revised;

34 (13) Whether the Uniform Unincorporated Nonprofit
35 Association Act, or parts of that uniform act, and related
36 provisions should be adopted in California;

37 (14) Recommendations to be reported pertaining to
38 statutory changes that may be necessitated by court
39 unification;



1 (15) Whether the law of contracts should be revised,
2 including the law relating to the effect of electronic
3 communications on the law governing contract
4 formation, the statute of frauds, the parol evidence rule,
5 and related matters;

6 (16) Whether the laws within various codes relating to
7 environmental quality and natural resources should be
8 reorganized in order to simplify and consolidate relevant
9 statutes, resolve inconsistencies between the statutes, and
10 eliminate obsolete and unnecessarily duplicative statutes;
11 and be it further

12 *Resolved*, That the Legislature approves removal of the
13 topics listed below from the calendar of the California
14 Law Revision Commission:

15 (1) Whether the law relating to class actions should be
16 revised;

17 (2) Whether a summary procedure should be
18 provided by which property owners can remove doubtful
19 or invalid liens from their property, including a provision
20 for the payment of attorneys' fees to the prevailing party;

21 (3) Whether the law governing unfair competition
22 litigation under Chapter 5 (commencing with Section
23 17200) of Part 2 of Division 7 of the Business and
24 Professions Code should be revised to clarify the scope of
25 the chapter and to resolve procedural problems in
26 litigation under the chapter, including the res judicata
27 and collateral estoppel effect on the public of a judgment
28 between the parties to the litigation, and related matters;

29 (4) Whether the requirement of paragraph (2) of
30 subdivision (b) of Section 800 of the Corporations Code
31 that the plaintiff in a shareholder's derivative action must
32 allege the plaintiff's efforts to secure board action or the
33 reasons for not making the effort, the standard under
34 Section 309 of the Corporations Code for protection of a
35 director from liability for a good faith business judgment,
36 and related provisions, should be revised;

37 (5) Whether Section 351 of the Code of Civil
38 Procedure, relating to tolling statutes of limitations while
39 the defendant is out of state, and related matters, should
40 be revised; and be it further



1 *Resolved*, That the Legislature approves for study by
2 the California Law Revision Commission the new topics
3 listed below:

4 (1) Whether the law governing common interest
5 housing developments should be revised to clarify the
6 law, eliminate unnecessary or obsolete provisions,
7 consolidate existing statutes in one place in the codes,
8 establish a clear, consistent, and unified policy with
9 regard to formation and management of these
10 developments and transaction of real property interests
11 located within them, and to determine to what extent
12 they should be subject to regulation;

13 (2) Whether the statutes of limitation for legal
14 malpractice actions should be revised to recognize
15 equitable tolling or other adjustment for the
16 circumstances of simultaneous litigation, and related
17 matters;

18 (3) Whether the law governing disclosure of public
19 records and the law governing protection of privacy in
20 public records should be revised to better coordinate
21 them, including consolidation and clarification of the
22 scope of required disclosure and creation of a single set of
23 disclosure procedures, to provide appropriate
24 enforcement mechanisms, and to ensure that the law
25 governing disclosure of public records adequately treats
26 electronic information, and related matters;

27 (4) Whether the law governing criminal sentencing
28 should be revised, nonsubstantively, to reorganize and
29 clarify the sentencing procedure statutes in order to
30 make them more logical and understandable; and be it
31 further

32 *Resolved*, That the Chief Clerk of the Assembly
33 transmit a copy of this resolution to the California Law
34 Revision Commission.

