

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN ASSEMBLY MAY 19, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Concurrent Resolution

No. 49

Introduced by Assembly Member Evans

March 10, 2009

Assembly Concurrent Resolution No. 49—Relative to the California Law Revision Commission.

LEGISLATIVE COUNSEL'S DIGEST

ACR 49, as amended, Evans. 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 resolution of the Legislature.

This measure would authorize the commission to study whether specified laws should be revised, authorize the commission to study the legal and policy implications of treating a charter school as a public entity for purposes of the Tort Claims Act, and would also authorize the removal of one specific topic from the calendar of the commission.

The measure would require the commission, before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, to submit a detailed description of the scope of work to the chairs and vice chairs of the Committees on Judiciary of the Senate and the Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change.

Fiscal committee: yes.

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

8 WHEREAS, The commission, in its annual report covering its
9 activities for 2008 and 2009, recommends continued study of 21
10 topics, all of which the Legislature has previously authorized or
11 directed the commission to study, and further recommends the
12 addition of one new topic to its calendar and the removal of one
13 previously authorized topic from its calendar; now, therefore, be
14 it

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

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

29 (2) Whether the California Probate Code should be revised,
30 including, but not limited to, the issue of whether California should
31 adopt, in whole or in part, the Uniform Probate Code, and related
32 matters.

33 (3) Whether the law should be revised that relates to real and
34 personal property, including, but not limited to, a marketable title
35 act, covenants, servitudes, conditions, and restrictions on land use
36 or relating to land, powers of termination, escheat of property and
37 the disposition of unclaimed or abandoned property, eminent
38 domain, quiet title actions, abandonment or vacation of public
39 streets and highways, partition, rights and duties attendant on

1 assignment, subletting, termination, or abandonment of a lease,
2 and related matters.

3 (4) Whether the law should be revised that relates to family law,
4 including, but not limited to, community property, the adjudication
5 of child and family civil proceedings, child custody, adoption,
6 guardianship, freedom from parental custody and control, and
7 related matters, including other subjects covered by the Family
8 Code.

9 (5) Whether the law relating to discovery in civil cases should
10 be revised.

11 (6) Whether the acts governing special assessments for public
12 improvement should be simplified and unified.

13 (7) Whether the law relating to the rights and disabilities of
14 minors and incompetent persons should be revised.

15 (8) Whether the Evidence Code should be revised.

16 (9) Whether the law relating to arbitration, mediation, and other
17 alternative dispute resolution techniques should be revised.

18 (10) Whether there should be changes to administrative law.

19 (11) Whether the law relating to the payment and the shifting
20 of attorney's fees between litigants should be revised.

21 (12) Whether the Uniform Unincorporated Nonprofit
22 Association Act, or parts of that uniform act, and related provisions
23 should be adopted in California.

24 (13) Recommendations to be reported pertaining to statutory
25 changes that may be necessitated by court unification.

26 (14) Whether the law of contracts should be revised, including
27 the law relating to the effect of electronic communications on the
28 law governing contract formation, the statute of frauds, the parol
29 evidence rule, and related matters.

30 (15) Whether the law governing common interest housing
31 developments should be revised to clarify the law, eliminate
32 unnecessary or obsolete provisions, consolidate existing statutes
33 in one place in the codes, establish a clear, consistent, and unified
34 policy with regard to formation and management of these
35 developments and transaction of real property interests located
36 within them, and to determine to what extent they should be subject
37 to regulation.

38 (16) Whether the statutes of limitation for legal malpractice
39 actions should be revised to recognize equitable tolling or other

1 adjustment for the circumstances of simultaneous litigation, and
2 related matters.

3 (17) Whether the law governing disclosure of public records
4 and the law governing protection of privacy in public records
5 should be revised to better coordinate them, including consolidation
6 and clarification of the scope of required disclosure and creation
7 of a single set of disclosure procedures, to provide appropriate
8 enforcement mechanisms, and to ensure that the law governing
9 disclosure of public records adequately treats electronic
10 information, and related matters.

11 (18) Whether the law governing criminal sentences for
12 enhancements relating to weapons or injuries should be revised to
13 simplify and clarify the law and eliminate unnecessary or obsolete
14 provisions.

15 (19) Whether the Subdivision Map Act (Division 2 (commencing
16 with Section 66410) of Title 7 of the Government Code) and the
17 Mitigation Fee Act (Chapter 5 (commencing with Section 66000),
18 Chapter 6 (commencing with Section 66010), Chapter 7
19 (commencing with Section 66012), Chapter 8 (commencing with
20 Section 66016), and Chapter 9 (commencing with Section 66020)
21 of Division 1 of Title 7 of the Government Code) should be revised
22 to improve their organization, resolve inconsistencies, and clarify
23 and rationalize provisions, and related matters.

24 (20) Whether the Uniform Statute and Rule Construction Act
25 (1995) should be adopted in California in whole or part, and related
26 matters.

27 (21) Whether the law governing the place of trial in a civil case
28 should be revised; and be it further

29 *Resolved*, That the Legislature approves for study by the
30 California Law Revision Commission the new topic listed below:

31 Analysis of the legal and policy implications of treating a charter
32 school as a public entity for the purposes of Division 3.6
33 (commencing with Section 810) of Title 1 of the Government
34 Code. ~~In conducting this analysis, the California Law Revision~~
35 ~~Commission shall not make any recommendation on whether a~~
36 ~~charter school should be treated as a public entity for the purposes~~
37 ~~of Division 3.6 (commencing with Section 810) of Title 1 of the~~
38 ~~Government Code; and be it further~~

1 *Resolved*, That the Legislature approves removal from the
2 calendar of the California Law Revision Commission the topic
3 listed below:

4 ~~(1) Whether~~ *Whether* the law relating to offers of compromise
5 should be revised; and be it further

6 *Resolved*, That before commencing work on any project within
7 the calendar of topics the Legislature has authorized or directed
8 the commission to study, the commission shall submit a detailed
9 description of the scope of work to the ~~Chairs and Vice Chairs~~
10 *chairs and vice chairs* of the Committees on Judiciary of the Senate
11 and Assembly, and if during the course of the project there is a
12 major change to the scope of work, submit a description of the
13 change; and be it further

14 *Resolved*, That the Chief Clerk of the Assembly transmit a copy
15 of this resolution to the California Law Revision Commission; and
16 be it further

17 *Resolved*, That the Chief Clerk of the Assembly transmit copies
18 of this resolution to the author for appropriate distribution.