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CALIFORNIA LEGISLATIVE HISTORY PUBLICATIONS AVAILABLE ONLINE: TIPS ON HOW/WHY TO USE THEM

Revised: September 25, 2007

These tips were compiled by Carolina C. Rose, J.D., co-founder and President of Legislative Research & Intent LLC (est. 1983), a firm that specializes in the historical research surrounding the adoption of California statutes, constitutional provisions, regulations and ordinances. A graduate of Stanford University (English, B.A., 1973 and Juris Doctorate, 1976), she worked in the California Legislature for approximately 7 years – 1 year as Assembly Fellow, right out of law school, and 6 years as Chief of Staff for Senator Nicholas C. Petris (Dem. Oakland) where she was responsible for his entire legislative program – over 200 bills during that time period. Ms. Rose qualifies as an expert witness in the reconstruction of California legislative histories. She also provides consulting services for the purposes of enacting or opposing legislation. Her MCLE seminars on legislative history are popular with attorneys, law librarians, paralegals, law students and professors.

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GENERAL NOTES

There are two primary databases that contain information relating to California legislation. The first is a user-friendly database which can be found at: <http://www.leginfo.ca.gov/bilinfo.html>. The second database is just as useful, but not nearly as user-friendly. This second database can be found at: <http://clerk.assembly.ca.gov/content/historical-information>.

When using this second database, be aware that most of the files contained within are gigantic, some even exceeding 100MB. The best tip we can give regarding large Adobe files is this: remain patient. Files this large take a painfully long time to upload completely. Even with a high speed, connection the average wait time is thirty or forty minutes. Because of these large sizes, we recommend closing all other applications before beginning the uploading process because you won't want to overwhelm your computer. Your computer may appear to "freeze" while the huge records are uploading, but try to resist the temptation to reboot. You may be able to scroll through the file a couple of times, or even print once. But, risk too much activity before the file is completely uploaded, and your computer will get angry with you. One way around this, besides waiting for the upload to complete, is to exit and reenter after each activity. It "cleans the slate."

Lastly, see my complimentary "California Legislative History and Intent: Research & Practice Guide" at <http://www.lrihistory.com/RESOURCES.aspx>, in particular, Chapters 3 "Published & Unpublished Sources of California History" and Chapter 4 "Research Steps." These two chapters provide more detailed information regarding each category of records cited here. If you have any questions or comments please feel free to contact us at (800) 530-7613.

I. Legislative Bill Information: 1993 – Current

<http://www.leginfo.ca.gov/bilinfo.html>

Bill versions*

Final Calendar

Senate & Assembly Committee analyses (policy and fiscal)*

Senate & Assembly Floor analyses*

Votes

Veto Messages

***Tips on how/why to use asterisked items:** The courts tend to rely most heavily upon these records. Overall tip: Be sensitive to dates – connect the dots between bill versions and related analyses. Example: That committee analysis comment you love just might have been nullified by a subsequent amendment.

1. **Bill versions:** Bill terms. Trace the evolution of a legislative proposal from introduction to final enactment. Courts pay attention to "language in, language out." Example: Your opponent is trying to read terms into a statute that the Legislature had before it but did not adopt. You

point this out and gain a possible slam dunk for your client. Legislative Counsel's Digest. These are mini analyses that run with the bill. They are potent because they are omnipresent at every stage of the legislative process. Typically they summarize what the then current law is (statutory, not case law) ("Existing law...") and what change the bill proposes ("This bill would ..."). Sometimes they have oblique references to other similar bodies of law that the changes are patterned after. These can be quite valuable but they can also be flat out wrong if Counsel has not kept up with the amendments. When I was working in the Legislature I sometimes found it necessary to submit amendment orders for Counsel's Digest comments because they had been superceded by later amendments. I've since noticed, however, that they are not always corrected when necessary.

2. **Analyses:** It is a good idea to compare all analyses with one another in chronological order and always review each analysis along with the bill version being addressed. There are three categories of legislative analyses available online: (1) Policy Committee Analyses: These provide useful descriptions, including but not limited to: (a) The problem addressed, (b) intended changes to prior law, (c) the rationale or intent for such changes, (d) comments by proponents and opponents and (e) descriptions and intent of amendments adopted during the legislative deliberations. (2) Fiscal Committee Analyses: Fiscal analyses are not supposed to repeat policy related discussions. Their focus is supposed to be the bill's impact on the State General Fund or any other fiscal impact of a significant nature. Fiscal considerations may be especially relevant if your statutory construction relates to a fiscal matter (e.g., governmental tort liability). Floor Analyses: Both the Assembly and Senate post their primary floor analyses online. They often duplicate statements appearing in the policy committee analyses.

Alert: Not all legislative analyses are posted online. In particular, partisan caucus analyses used in committees and on the floor, some superceded analyses, Department of Finance fiscal analyses and Governor enrolled analyses must be obtained from other sources.

II. California Statutes & Amendments to the Codes

A. Statutes

1850 – 1995. http://clerk.assembly.ca.gov/archive-list?archive_type=statutes

Note. This database of statutes goes beyond 1993, but the two "leginfo" links provided below direct the user to the same information (plus more!) and is much more user-friendly. If you are searching for a statute from the 1993-94 session to current, we recommend that you use those links instead.

Tip. The third drop down menu on the left says "Statutes." Click on the drag-down menu and scroll to the year you need. After selecting the year, a table of contents will open. Find the bank of chaptered laws that has your chaptered law number in it and click on it. This will open up the appropriate volume from the *Statutes*. This is an outstanding collection, but it does have some shortcomings. For example, it does not include the important 1872 Code Enactments. You can find them at the State Law Library, a county law library or ABA accredited law school, and they are available for purchase from LRI. Do not confuse the 1872 Code Enactments with the 1871-

1872 collection you'll find online. The 1872 Code Enactments are special, one-time enactments of the Civil Code, Code of Civil Procedure, Penal Code and Political Code. (The CA Code Commissioners decided that uncodified general law, sans code books, was crazy. Thus California's first code books were born.)

Finding the chapter you need. Once you open the appropriate file, look for bookmarks on the left side of the screen. The word "Statutes" will in the bookmarks column with a "+" sign next to it. Click on the symbol to expand the bookmarks which will allow you to see increment of chapter numbers. Click on the chapter number that is numerically closest to the one you are interested in. After that, it is simply a matter of scrolling through until you reach the specific chapter that you are interested in.

1993 – Current, without a bill number. <http://www.leginfo.ca.gov/statute.html>

Enter the chapter number and year number and, in return, you will get receive a word searchable HTML version of the chaptered law.

1993 – Current, with a bill number. <http://www.leginfo.ca.gov/bilinfo.html>

Select the appropriate year from the first drop-down menu. The second drop-down menu allows you to select the bill type, either Senate or Assembly. In the text box, type in the bill number and hit "search." The first entry under "Bill Text" will say "Chaptered." You can view the chaptered law in either the HTML or PDF, depending on personal preference. Please note that the 1993-94 session only has the HTML version.

Tips on how/why to use: Every piece of legislation ("bill") that becomes law is assigned a chapter number by year of enactment. Example: _____ Code § _____, as added by Statutes of [year], Chapter [number], Sec. [number].

Trace the evolution of a statute. Courts pay attention to "language in, language out." Also, a review of how your statute has evolved over time can sometimes raise arguments not previously considered.

Citations. Obtain the chaptered law citations from an annotated code book (hard copy West's or Deering's or online Westlaw or Lexis-Nexis). They are at the end of the code section. (Statute year with a chapter number.) An unannotated desk reference code book will be zero help here.

B. Constitutions

1849 – 1995. http://clerk.assembly.ca.gov/archive-list?archive_type=statutes

Note. The annual snap shots of both the California and Federal constitutions are buried in the "Statutes" database which is updated periodically.

Tips. The third drop down menu on the left says “Statutes.” Click on the drag-down menu and scroll to the year you need. This will open up the appropriate volume from the *Statutes*. After selecting the year, a table of contents will open. Look for “Constitution.” If it does not appear, open up the first book in the series. Sometimes the bookmarks on the left will be helpful. Otherwise, just scroll through the first part of the first volume.

III. Journals of the Assembly & Senate (Think “Diary”)

Assembly Journals: 1849 – 1997. http://clerk.assembly.ca.gov/archive-list?archive_type=journals

Note. When this article was published, the most current Assembly Journals posted were 1997. However, the webmasters do update this database periodically, so check back occasionally to see if more sessions have been added.

Tip. Go to the drop down box that says “Journals” and select a year. An index of the volumes for that year will load. Select “Journal of the Assembly – Index to Regular Session.” The Adobe word search feature does not work for these years. Also, the indexes do not print well and are hard to read for 1849-1970. The 1971-1997 journals print fine.

1995 – Current. <http://clerk.assembly.ca.gov/daily-journals>

Tip. Select “Assembly Daily Journal” for the Publication Type. Enter your date range or single date and hit search. The indexes for these years are not online. Searches must be done day by day using the Find word search feature in Adobe Acrobat. Very tedious.

Senate Journals

The Senate does not have a complete journal archive online like the Assembly. They only have journals for the current and immediately previous sessions at: <http://www.leginfo.ca.gov/senate-journal.html> Indices are not available, but the PDF files are word searchable.

Additional tips on how/why to use:

1. Find published letters of intent by individual legislators and committee chairs, opinions by legislative counsel, citations to agency reports (to obtain elsewhere), Governor veto messages, vote records, etc.
2. Generally it takes 2-3 years for the Legislature to publish hard copy indices for these volumes – available at ABA accredited law schools and at the large county law libraries.
3. The early year journals also have appendices with agency and/or committee reports (up through 1970). These were not included in the online database however.

IV. Final Histories of the Assembly & Senate (Calendar of events)

Assembly & Senate Final Histories. 1881 – 1993. http://clerk.assembly.ca.gov/archive-list?archive_type=histories

Note. This database of statutes goes beyond 1993, but the “leginfo” link provided below directs the user to the same information (plus more!) and is much more user-friendly. If you are searching for a statute from the 1993-94 session to current, we recommend that you use that link instead.

Tip. The second drop down menu on the left says “Histories and Indexes.” Click on the drag-down menu and scroll to the year you need. After selecting the year, a table of contents will open. Find the session and house that you are interested in and click on it.

1993 – Current. <http://www.leginfo.ca.gov/index.html>

Click “Bill Information” and follow the prompts. You will need the year of enactment and bill identification.

Tips on how/why to use: The final histories lay out all the important procedural developments. E.g., committee assignments, hearing dates, floor consideration dates, votes, etc. “Consent” designations mean that the bill was so noncontroversial that there was no hearing or discussion and the roll-call substituted for the vote. “Rule 28.8” designations in the Senate fiscal committee (Appropriations) means that there was no fiscal hearing because the impact on the State General Fund was considered to be insignificant.

V. Table of Sections Affected and Legislative Index

The Table of Sections Affected is a valuable research tool. Find all bills impacting your section number of interest, whether or not they passed. This is a good way to find relevant predecessor or concurrent failed bills when you are researching amendments to existing code sections.

These tables can be at both the <http://www.leginfo.ca.gov/legpubs.html> website, and the http://clerk.assembly.ca.gov/archive-list?archive_type=histories website (listed with the Histories & Indexes). Between the two websites, almost all years are accounted for. Topical searches in the Legislative Index at <http://www.leginfo.ca.gov/legpubs-legindex.html> allow you to identify relevant concurrent or failed bills pertinent to new code sections.