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Preliminary concepts – Distinguishing Statutes, Codes and Regulations -

Statutes are the published laws enacted by the legislature each year organized in the order signed by the Governor (or President) into Statute books for each year.

Codes are an organizational scheme developed by legislatures that effectively allows statutes to be deconstructed and reassembled in the various logical locations within already existing laws on the subject.

Regulations are laws adopted by Regulatory agencies pursuant to delegations of authority by a legislature.

I. Researching California law

A. Statutes

1. Defining Some Common California Legislative Terms

Assembly Bill/Senate Bill - A formal proposal to add, amend or repeal some provision of statutory law. Ordinarily printed in a roughly 5x7 format, the bill is reprinted each time amendments are adopted. Thus, when the Legislature speaks of an "amended version" of a bill, they refer to the bill as it existed after the changes adopted on a particular date.

Chaptered Statute - Each year, the state publishes the bills enacted in that year, organized according to the order in which the Governor signed the bill, rather than by subject matter, in the Statutes of (year). The first bill signed by the Governor in that year is Chapter 1, the second is Chapter 2, etc. While the bills' provisions may be changing many different provisions of many codes, the overall bill becomes Chapter (xx) of the Statutes of (xxxx). In the annotated codes, following each section, the history will refer to the chaptered statutes that affected the section by a small c with a period and then a number. For example, c.123 of 1995 refers to Chapter 123 of the Statutes of 1995.

Concurrence - After the second house approves a bill, it goes back to the floor of the house of origin for concurrence in the other house amendments.

Consent - When a bill is considered uncontroversial, it may be presented on the floor as part of a package of bills presented simultaneously on what is called the "Consent Calendar." Floor analyses for bills on the Consent Calendar are termed consent analyses.

Fiscal Committee - Each house maintains one committee to consider all bills that might impact the state budget. Fiscal committees are not concerned with policy; their task is budgetary.

Floor - Shorthand for Assembly floor, or Senate floor; refers to matters under consideration by the entire Assembly or Senate, as opposed to matters being considered by committees composed of some portion of the entire body.

Floor analysis - When a bill is up for approval on the floor of the Senate or Assembly, each legislator receives an analysis of the bill, either a Senate Floor analysis, or an Assembly Floor analysis. Confusing matters in recent years, Assembly floor analyses of Senate bills are titled "Senate Third Reading" even though the analysis is prepared by the Assembly for use by Assembly members. The three primary forms of floor analyses are Third Reading, Concurrence and Conference Committee analyses.

Legislative Analyst - The Legislature's budget arm, counterpoint to the Governor's Department of Finance. Legislative Analyst analyses are very common in legislative files. (Interesting historical sidelight - for many years the Legislature felt it was disadvantaged in budget negotiations by the lack of trained staff, since the Governor had his Department of Finance to rely upon. But the legislative attempts to create a Legislative Analyst were repeatedly vetoed by the Governor. The Legislature finally crafted an office using Legislative Rules. Later, the Governor's relented and the office is now statutory). The Legislative Analyst focuses on the state budget, which limits the utility of these analyses for legislative intent questions of substantive law.

Legislative Counsel - Attorneys to the Legislature, the Office of the Legislative Counsel drafts the language of bills, prepares summaries of legislation, and renders legal opinions on questions of law posed

by legislators. Legislative Counsel regards their relationship with the Legislature as an attorney-client relationship, so opinions rendered to individual legislators are confidential. However, the legislators sometimes release the opinions, or deposit them in legislative files, where they become accessible to the public.

Policy Committee - Committee focusing on specific topics in the law to make the initial policy investigation into legislative bills. As an example, bills dealing with local government issues will be assigned to the Local Government Committee. The Assembly and Senate both maintain numerous standing committees on different topics that continue from session to session, and also appoint shorter-term committees from time to time to address particular topics.

Third Reading - Legislative rules require that each bill must be read on the floor three times before it can be approved. Thus when a bill is up for third reading, it is at the point of a final vote on approval/rejection.

Third Reading Analysis - The floor analysis prepared for a bill up for final vote in the Assembly or Senate.

Uncodified Statute - A bill approved by the legislature and signed by the governor that, organizationally, has not been formatted for incorporation into a Code. Originally, all statutory law was uncodified statutes (See definition for Chaptered Statute above). Codes were created to provide a secondary organizational structure to make the law more accessible.

2. A Short Summary of the Legislative Process in California

Authority - The legislative process is controlled by provisions of Article IV of the Constitution, by statutes primarily contained in Sections 9000 et sequence of the Government Code, and by rules of procedure adopted by the Assembly and Senate at the start of each legislative session.

The Process - The California Legislature consists of the Assembly and the Senate. All California legislation is enacted by legislative and gubernatorial approval of either an Assembly Bill, or a Senate Bill. Bills introduced in the Assembly by members of the Assembly are Assembly Bills (AB), while bills introduced in the Senate by members of the Senate are Senate Bills (SB).

The process followed by both Assembly Bills and Senate Bills is similar. Throughout the process, a bill can be amended by vote on the floor of the house in which the bill is then pending. If the bill fails to get the necessary votes for approval, either in committee or on the floor, the bill dies.

Using an Assembly Bill as an example of the process, once an AB has been introduced it is sent to a policy committee in the Assembly for consideration. If the committee approves the bill, it is sent to the Assembly floor for consideration by all the members of the Assembly, unless the bill has fiscal ramifications for the state budget, in which case it may be sent to an Assembly fiscal committee before being sent to the floor. The bill may also be sent from committee to the floor with a recommended amendment and request for referral back to the committee for further deliberations. Once on the floor, at the completion of committee deliberations, the members vote on final approval. If approved, the bill is then sent from the Assembly to the Senate, where it will be considered by a Senate policy committee, fiscal committee and then on the Senate floor.

If approved by the Senate in the same form as approved by the Assembly, an AB will then go to the Governor. If the Senate amended the bill, the Assembly must approve the changes before the bill is sent to the Governor. If the Assembly does not accept the Senate changes, the Senate and Assembly will form a conference committee composed of a few members of each house to negotiate language acceptable to both houses. If the negotiation is successful and both houses accept the negotiated language, the bill is then sent to the Governor.

An SB will follow the same process, but will proceed through the Senate first, then go to the Assembly.

3. Researching California Statutory Legislative History

The primary sources to document the legislative history of California statutory law are the various agencies and offices in and around the California State Capitol in Sacramento. In addition, some significant legislative history material on California legislation is available online, and many local law libraries have some legislative materials. To help you understand what you can do, and how to do it, we discuss how to determine what legislation is pertinent to your issue, and once that determination is made, the historical context and types of documents available in the historical era in which you are researching.

Step One: Identifying the Pertinent Legislation

Before you can begin your substantive research you must identify the chaptered statute and bill number (Senate Bill or Assembly Bill) making the changes in which you are interested. To find the bill number you must first identify the chapter number and year.

Finding the pertinent chaptered statute - Review the annotations for the Section(s) in which you are interested in Deering's or West's Annotated Code (see attachment A for example and expanded discussion of the meaning of the annotations). Legislative history notes generally follow each section in the published bound volumes of the annotated codes. Online and CD versions of the codes may sometimes be less complete and reliable for legislative history annotations. The enactment history of the section will generally be in small type at the bottom of the text of the section. The notes will refer to, for example, 1976 c.1010. The small c with a period (c.) is an abbreviation for Chapter. Thus, this example would refer to Chapter 1010 of the Statutes of 1976, the official published volume of enacted laws for 1976.

The notes under a particular section may contain references to many different chaptered statutes as the language of the section developed over the years. The codes will sometimes provide summaries of the changes accomplished by each chaptered statute, which can help you identify what is pertinent to your concerns, and what is not pertinent. If the codes don't summarize what the amendments accomplished, you generally will have to go to the Statute volumes to compare the language from change to change.

Distinguish between "Former Section" and "Derivation" - Much of the language in the Codes has evolved over the years through re-organizations and amendments. Chapter 1010 of 1976, the example above, was a major re-organization of the Education Code, so the vast majority of the present sections in the Education Code cite Chapter 1010 as their enacting statute. But Chapter 1010 was simply re-organizing the Education Code without substantive effect; so to research the substance of many present sections, you must go back to the law prior to Chapter 1010. To find the prior history, look a little further down the notes under each section for very small type discussing derivation. Distinguish discussion under a heading such as "Derivation" from discussion under a heading such as "Prior Section." "Prior Section" usually refers to a previous section of the same number, but substantively different subject matter. Discussion under the heading "Derivation" usually refers to the substance of the language of the present section.

Refer to tables if necessary - For the example we are referencing, Chapter 1010 of 1976, you will often not find derivation notes in the annotated codes, in which case you must go to cross-reference tables, generally in the front of the annotated code, to find the section number from which the current section was derived.

Generally, as noted above, for amendments since the most recent enactment of a section, the code will provide notes on the changes made by each amendment, which allows researchers to determine the relevance of the changes to their research project. However, once the research project has been traced back beyond the most recent reenactment of the entire section, one must usually physically review each chaptered statute listed in the derivation and compare language to determine the changes made with each piece of legislation.

Determine the bill number - The annotated codes provide bill numbers (i.e. AB 11) for legislation since about 1990. Where the information is not available in the annotated Codes, you can convert the chapter number to a bill number by referencing the tables in the front of the first volume of the Statutes for that particular year. The conversion can also be made using the table of sections affected, found as an adjunct to the Final Histories published by the legislature for each year, but generally the Statute books are more widely available.

Step Two: Finding the Documents

The types of documents available in California for legislative history research vary according to the historical era in which one is researching. The following provides an overview of the types of documents generally available in particular historical eras, and for the older eras, a brief discussion of dominant legislative events of the era to help put the time period in context.

For all years: Copies of all enacted statutes since 1851, the Assembly and Senate Journals since 1851, and all the published procedural histories/indexes since the Legislature began publishing procedural histories in 1881 can be found online at <http://192.234.213.35/clerkarchive/>.

1993 to the present: For legislation from 1993 through currently pending bills, the California Legislature, through the Office of the Legislative Counsel, provides information on all legislative enactments by the Legislature. The available material includes a procedural history of the bill, copies of the various amended versions of the bill, and committee and floor analyses, which often discuss the source and purpose of the proposal. You will find the Legislative Counsel Web Page at <http://www.leginfo.ca.gov/bilinfo.html>.

In addition to the material available online, more detailed information is available in the file documents contained in the files of the author, the policy committees, and other organizations within the executive and legislative branches that prepare analyses in response to pending legislation. The sources for documents on any particular piece of legislation depend on the subject matter of the bill. Files can often be very voluminous. It is often most cost-effective to physically review files if you want to avoid very large photocopy bills, and many duplicate, non-substantive or redundant documents. In addition, many offices will require that persons requesting access to files handle the photocopying.

On some legislation, recommendations of the California Law Revision Commission (CLRC) may be pertinent to legislative intent. CLRC recommendations are published and are widely available in law libraries. Background memos and minutes of the CLRC are also pertinent in many cases. These materials are sporadically available in law libraries or other archival sources, and are also available through the CLRC at their web site, <http://www.clrc.ca.gov>.

1970 to 1992: For this era, the same types of documents currently available are generally also available, but usually not online. Most documents are in various files at the California State Archives; some documents are available in various collections at the California State Library, and some at other sources around the Capitol. This time period saw legislative staffs at their peak, so files often tend to be very voluminous. As with more recent files, it may be most cost-effective to physically review files if you want to avoid very large photocopy bills, and many duplicate, non-substantive or redundant documents.

Historically, the 70's were the time that much of modern environmental law began to develop, including CEQA, the Coastal Act, the Hazardous Waste laws, endangered species laws, and the creation of the Energy Commission. For many years after Prop 13 passed in 1978, the Legislature spent inordinate amounts of time dealing with local government fiscal woes, creating Mello-Roos and other remedies for replacing lost property tax revenues. CLRC efforts to revise the Enforcement of Judgments Law and the Probate Code were also major legislation of this period.

1943 to 1969: The materials available in this era, while reliably providing information on the source and purpose of legislation, are not as varied as those for more modern legislation. Procedural histories, bill

copies, summaries by legislative counsel, and Governor's and executive branch files are reliably available. Committee materials are sometimes available after 1960, but floor analyses are very rare.

Historically noteworthy legislation in the 1940's included the beginnings of modern administrative agency law, and also modern redevelopment law. The first attempts at a Fair Employment Practices Act also began in the early 1940s, although the Act was not adopted until 1959. The late '40s saw the enactment of the first corporate shareholder derivative provisions. The early '50s produced major changes in the Planning and Zoning law. In 1959, in addition to the Fair Employment Practices Act, the Unruh Act was first enacted.

The dominant legislative event of the 1960s was the conversion from a part-time to a full-time Legislature in 1965. This was also a period when the Legislature spent considerable time and effort revising the 1879 Constitution, acting with the help of an appointed Constitution Revision Commission.

1900 to 1942: For this era, probably more than any other era, the amount of material available is unpredictable. Procedural histories and bill copies are always available. For the latter part of this era summaries by legislative counsel are generally available, and (rarely) detailed committee reports were published for some very controversial topics. For many bills, once you get beyond these basics, there is little legislative documentation. Executive branch publications may provide comment, and reviewing trade publications, newspapers, or other media of the time can provide valuable historical context.

Some specific topics: For the first few years of the century there is usually not much, other than on major topics such as the Bank Act of 1909, or insurance legislation following the 1906 San Francisco earthquake. During the progressive era, from 1911 to 1915, many major changes in California law were enacted, such as the Public Utilities Act, labor legislation such as the Workman's Compensation law, the eight-hour day and wage protection measures; in addition, the initiative and referendum were created, and a significant expansion of modern executive branch agency law began. Although commentary on specific legislation by the Legislature is fairly rare, because this era was seen at the time as revolutionary in many respects, there is relatively abundant commentary on the most controversial legislation of the day by executive branch and media sources.

During the era from 1915 to 1930, the topics that generated more significant discussion included drug and firearm laws, the newly developing vehicle laws, the initial California laws regulating many professions, and the first planning, zoning and subdivision laws. Beginning in 1929 and running through 1933, major, well-documented changes were made to the general corporations law. During the Depression years, legislation relating to foreclosure, taxation, unfair trade practices, and other Depression-related subjects is often fairly well documented.

1849 to 1899: This period begins with the adoption of the 1849 Constitution, for which a transcript of the proceedings exists. The first Legislatures in the early 1850s tended to lift entire bodies of law from other jurisdictions and enact them in California, although that fact is sometimes difficult to document, as there is frequently little or no substantive history of legislation of this period beyond the most basic documents and an occasional newspaper clip. The adoption of the first codes in 1872 is fairly well documented, as is the 1879 Constitution, and the code amendments at the turn of the century. The period from 1879 through 1900 is only slightly better for general legislation than the very early days. The materials available are unpredictable, but often skimpy. When combined with media and treatise sources, useful historical context, or links to case law in other states, can sometimes be developed, but explicit discussion of specific legislation is extremely rare.

D. Overview on Determining the Effective Date of Statutes

The law regarding the effective date of Statutes is contained primarily in Government Code Section 9600 and Constitution Article IV Section 8. Under the current general rule, in effect since 1974, statutes take effect on January 1 of the following year, unless the statute specifically states some other effective date. There are exceptions for tax levies, budget appropriations and urgency statutes that go into effect immediately. Prior to 1974, the rule varied as one goes back in time, but generally statutes took effect 60 to 90 days after the Governor signed them.

E. A Short History of the California Legislature

For more discussion, visit the Legislative Counsel website at <http://www.leginfo.ca.gov/pdf/caleg6.pdf>

1). Special Note on Legislative Sessions: From 1850 to 1965, the California Legislature was a part-time legislature. Legislators generally had other careers, and met for relatively short periods in the spring and early summer. For most of that period, general sessions were only held every other year, with the in-between years serving only as budget sessions. In 1965, by Constitutional amendment, the Legislature became a full-time body that met annually. The 1965 Constitutional amendment was one product of a multi-year effort of an appointed Constitution Revision Commission that completely reviewed and revised the 1879 Constitution. Beginning in 1973-74, the Legislature went to the two-year sessions that are the current practice.

2). A Brief Historical Summary (see also the historical discussion in the section below regarding the California Codes, beginning at page 8)

California's first Constitutional Convention met in the Pueblo of San Jose in 1849 and created the California Legislature. California's first legislature met in 1850 in Monterey, in a building that still stands in the middle of downtown Monterey. The first legislature was composed of a melting pot of cultures and backgrounds. Lacking in staff and facing the tremendous job of providing a new state with a body of law, the first legislature began enacting a framework of statutory law that drew on diverse sources, mixing Anglo-Saxon common law with Napoleonic Civil law and Mexican property law. Many of the individual legislators had arrived only recently in California, and they often turned to the law of states they had left as a model for California statutes.

Within a couple of years, the State Capitol had been moved up to Sacramento, after brief flirtations with San Jose and Benicia. The Legislature continued to draw often on existing law of other states for model legislation. During this period, legislative sessions were short, usually beginning in January and wrapping up by early May.

In 1872, the Legislature enacted the first codes in California in an attempt to provide a more accessible format for compiling the statutory law. The first four codes were the Civil Code, Code of Civil Procedure, Penal Code and Political Code. The proposed codes were developed and presented to the legislature by a Commission appointed by the Legislature in 1868 to recommend a revised format for California statutory law. The Code Commission effort drew heavily on the Codes developed in New York by David Dudley Field, but also incorporated some existing California statutory law, and in some cases drafted new law.

California in the late 19th century was a magnet for adventurous and strong-willed people. The clash of people from many cultures and backgrounds produced a volatile political environment that led to a Constitutional Convention in 1878-79. The 1879 Constitutional Convention replaced the 1849 Constitution with a new Constitution, most noteworthy for extraordinary length and detail, antipathy to corporations, and institutionalized discrimination against the Asian population within the state.

In the period from 1880 to 1910, many people believed the California Legislature was unduly influenced by corporate interests, in particular the Southern Pacific Railroad. The energy from that belief propelled the progressive movement into control of the Legislature, along with the election of Hiram Johnson as Governor in the election of November 1910. In the next few years, the Legislature, dominated by progressive Republicans, Democrats and Independents, enacted many fundamental provisions of modern labor law, including the first workers' compensation laws, eight-hour-day laws, child labor laws, and wage payment laws. The progressives also accelerated the development of administrative agency power, most notably with the first Public Utilities Act in 1911, replacing an act that previously applied only to railroads, and with the first Corporate Securities law in California.

The late 1920s and early 1930s saw a major legislative revision of the California General Corporation Law. In large part, this was in response to the negative consequences on the state's economy of the prior law, and this effort abandoned the antipathy toward corporations reflected in early statutes and the 1879 Constitution.

With the economic crash of 1929 and subsequent depression in real estate prices, California's property tax revenue base collapsed. From 1929 to 1939, the Legislature spent an enormous amount of time creating much of the modern scheme of taxation, including the Corporate Franchise Tax, Income Tax, and Sales and Use Tax. The deflation in real estate values, with subsequent foreclosures, also led to the enactment of much of our modern trust deed and foreclosure law.

The late 1940s saw the enactment of the framework of much of our modern administrative law, as well as provisions for redeveloping the growing urban areas of the state, and the first comprehensive water pollution law. A major development in the late 1950s and early 1960s was the beginning of the modern expansion of civil rights laws, which evolved into extensive development in consumer laws in the early 1970s. The 1970s were also characterized by the initial enactment of much of our modern environmental law. Proposition 13 of 1978 caused a monumental upheaval in how government operations were financed, and the Legislature spent much of its time over the next decade on local and state government finance issues.

F. Overview - The History of California Codes

The primary purpose of this section is to provide a general background on the historical development of specific California Codes to help alert you to bodies of law whose historical development may be more complex than a quick review of the codes would suggest. A secondary purpose of this section is to provide a bit of the historical context for selected provisions in California law.

When California became a state in 1850, the Legislature commenced enacting laws. All early laws were organized simply in the order in which the Governor signed bills, rather than by subject matter. As these uncodified statutes increased in number over the years, the lack of topical organization made it increasingly difficult to find the law on any particular issue. To address this organizational difficulty, the first four California Codes were created in 1872. They were the Civil Code, the Code of Civil Procedure, the Penal Code, and the Political Code. They were inspired by, and largely modeled on, the codification efforts of David Dudley Field in New York. For five decades, these remained the only California codes. Topics enacted on subjects not appropriate for one of these codes continued to be enacted as uncodified statutes.

As the volume of California law contained in uncodified statutes continued to expand, along with the attendant difficulty in gathering all the law on any particular subject, the Legislature began considering adding additional codes. They first created a School Code. Then, in the late 1920s, the Legislature created a commission, the California Code Commission, to completely review all California law and organize it into codes.

From 1930 through the early 1950s, the Code Commission labored to create most of the California Codes with which we presently deal. A few codes, such as the Family Code and the Public Contracts Code, have

been created more recently, but the bulk of the present California Codes trace their origins to the Code Commission efforts during this period.

The Code Commission expressly sought to consolidate existing law without making substantive changes. In the discussions of individual codes that follow, we will generally briefly note the chaptered statute that created the code under discussion. Identifying the chaptered statute that created a particular code can be helpful in recognizing the need to look back into prior law for the source of particular statutory language.

Business & Professions Code - Primarily created by a series of small Code Commission enactments in the 1940s. Much of the licensing law contained in the first part of the code, such as the Real Estate, Contractor and Detective licensing laws, were first enacted between 1915 and 1935. The unfair practices portions of the Code, commencing with Section 16000, also largely date from the 1930s, although some small portions go back as far as the 1890s.

Civil Code - One of the original codes of 1872, much of the Civil Code derives from New York law, and in particular the New York Civil Code developed by David Dudley Field. A few of the more noteworthy bodies of law contained in the modern Civil Code, from a legislative history standpoint, include the following:

The basic consumer protection provisions contained in Sections 1750 through 1800 were first enacted in the 1970s. It is often important to review their code annotations carefully, as these sections have been frequently amended over the last couple of decades. The Mechanic's lien provisions (3097 et seq) are noteworthy due to their extraordinarily complex history. The current organization of the Mechanic's lien law was enacted in 1969, but Mechanic's lien provisions can be traced back to the 1849 Constitution, with many reorganizations and recodifications over the intervening years. Most of the current language in the law predates the 1969 enactment by many decades.

Code of Civil Procedure - The CCP was also one of the original 1872 codes, but the law has changed so much since that time it is fairly rare for the 1872 code to be pertinent to a modern CCP section. However, be alert to the fact that some of the Arbitration provisions (Sections 1280 et seq.) have language that can be traced back to 1850. In addition, much of the present Civil Discovery Act (Sections 2016 et seq.) derives from an earlier Civil Discovery Act in 1957.

Commercial Code - The California adoption of the UCC first occurred in 1963, with periodic adoptions and amendments since that time.

Corporations Code - The general corporation law in Sections 1 to 2200 was adopted in 1975. That adoption was a major overhaul of the prior law that had been largely developed between 1929 and 1933 in old Civil Code sections, then pulled out of the Civil Code by the Code Commission to create the Corporations Code in 1947. California has had general corporation laws since the 1850s, but the law prior to 1929 has so little in common with present law that it is seldom pertinent to questions of legislative intent.

The non-profit corporation law in Section 5000 to 10,000 was enacted in 1979. Prior to that time, the general corporation law largely governed non-profit corporations, with a few minor provisions in a separate non-profit law. Again, the 1979 changes were so comprehensive that the prior law is seldom pertinent.

Some parts of the Partnership/Limited Partnership law in Sections 15000 et seq go back to the 1920s. Although the law was extensively revised in the 1980s and 1990s, the older law is still sometimes pertinent, so careful tracing of language is important when researching these provisions. LLC's (Sections 17000 et seq) were created in 1994. The first Corporate Securities law (Sections 25000 et seq) in California was enacted more than 80 years ago, but the Legislature essentially threw out the old law and enacted a completely new law in 1968, so the old law is largely little more than a historical curiosity. The Franchise Investment law in Sections 30000 et seq was enacted in 1970. There was no prior law.

Education Code - Some of the language is very old, and tracing the history can be confusing. In the 1800s, the law governing schools could be found scattered in various uncodified statutes and in the Political Code. Early in the twentieth century, the legislature created a School Code. A few years later the

School Code was reorganized. A few years after the School Code reorganization, the Code Commission reorganized the law again, creating the first Education Code. Since the first Education Code, various parts of the Code have been repeatedly reorganized, and in 1976 the entire code was reorganized and recodified by Chapter 1010 of the Statutes of 1976. Be alert to the fact that no new substantive law was intended by Chapter 1010, so any Section the annotated codes cite as enacted by that Chapter is simply a re-enactment of some preexisting law.

Elections Code - The Elections Code was created in 1939, in part from the former Political Code. Since 1939, the Elections Code has been extensively reorganized, in 1962, 1975-76, and most recently in 1994. Much of the law is derived from the mid-1970s, when the Fair Political Practices Act was created.

Evidence Code - The Evidence Code was created in 1965, at the recommendation of the California Law Revision Commission. Although some sections of the CCP repealed at that time are pertinent to the history of some modern Evidence Code Sections, the Law Revision Commission comments published in the annotated codes generally identify the pertinent sections.

Family Code - Created in 1992, primarily from provisions formerly in Civil Code Sections 4000 et seq. The Civil Code Sections sometimes had histories dating back into the 1800s, but family law has changed so fundamentally since the Family Law Act in 1969 that the older law is seldom pertinent.

Financial Code – in large part based on the 1909 Bank Act, the Code Commission created the Financial Code in 1951. However, two years prior to the Code Commission effort, in 1949, a coalition of banking interests had achieved their own codification of the Bank Act as a Bank Code. Unlike the Code Commission efforts, the 1949 Bank Code made some substantive changes, and so is a potentially useful legislative history source in some cases.

Fish & Game Code – Much of this code developed long ago, when fish and game issues were much more economically important in that less technologically advanced time. Codified in 1933 and recodified in 1957. The endangered species provisions were a significant 1970 addition to the Code.

Food & Agriculture Code - Like the Fish & Game Code, much of this body of law was well-developed many decades ago, in particular the still economically important lien provisions. Codified in 1933 as the Agriculture Code, the Code was recodified in 1967, and again as the Food and Agriculture Code in 1972.

Government Code - First codified in 1943, but many portions were added piecemeal over the following couple of years, as the Code Commission struggled with the large body of law relating to Government. Provisions about which tracing questions frequently come up include:

The Fair Employment and Housing provisions. These were added to the Government Code in 1980, but that enactment was simply moving over provisions that previously were in the Labor Code and Health and Safety Code. The Fair Employment Practices Act goes back to 1959, while the Fair Housing provisions were first enacted in the early 1960s.

The Civil Service and Retirement provisions. Much of the civil service law dates back to the progressive era during Hiram Johnson's governorship, beginning in 1911. The Retirement provisions began to develop in the late 1920s.

The planning and zoning law originated as two bodies of law. The first zoning laws appeared during Hiram Johnson's term, while the first planning law appeared in the mid-1920s. The planning and zoning law was consolidated in the early 1950s, and extensively reorganized in the early 1960s. Caution: The annotated codes often do not cite a source for language in the planning and zoning law prior to the reorganization in the mid-1960s. In fact, almost all of the language was derived from the prior planning and zoning law. Compounding the difficulty, in the four-year period between 1949 and 1953, when the two laws were consolidated, the law was significantly amended or reorganized almost yearly, sometimes by more than one bill in a session. Tracing language through this time period can be very difficult.

The subdivision map act enacted in 1974 (Sections 66400 et seq) was a major reorganization and amendment of a body of law that had existed since the 1920s, and was first codified in the Business and Professions Code before being moved to the Government Code in 1974. The 1974 effort was the product of a contentious 4-year legislative battle, and during that time some changes were made to the old B&P code sections, which were then incorporated, with little comment, into the bill moving the whole works into the Government Code. This can create difficulties in tracing language to its substantive source.

Harbors & Navigation Code - Codified by Chapter 368, Statutes of 1937. Much of this code is based on law that predates 1937, so careful reading of the code annotations is important.

Health & Safety Code - Codified by Chapter 60 of 1939, and extensively reorganized and renumbered in 1997. The 1997 reorganization was so extensive the annotated codes have had difficulty providing historical derivation notes under all sections, so you may have to refer to the tables at the front of the Code. The hazardous waste provisions are a particularly complex portion of the Code simply because there were so many changes being made by the Legislature in the space of a few years. The redevelopment provisions date back to the 1940s, but have been revised and expanded repeatedly over the years.

Insurance Code - Codified by c. 145, Statutes of 1935, much of the Insurance Code was pulled out of the 1872 Civil Code, so frequently legislative research efforts will take you back to the 1872 Civil Code. The provisions regarding priorities of auto insurance in Sections 11580 et seq are a portion of the Insurance Code noteworthy for the complexity of the development of the law. The codes sometimes lead one to believe portions of the law were enacted in 1970, when in fact some language may date back as far as 1959.

Labor Code - Codified by Chapter 90, Statutes of 1937, much of the Labor Code was also pulled out of the 1872 Civil Code. The basic workers' compensation law was developed during the progressive era from 1911 to 1915, and many of the provisions regarding payment of wages, child labor and working hours also date from this time period.

Military & Veterans Code - Codified by Chapter 389, Statutes of 1935, much of this law dates from the WW II era.

Penal Code - One of the original codes from 1872, much of this law has changed so significantly that the 1872 provisions are seldom pertinent. Much of the law regarding drugs and firearms developed in the period between 1925 and 1935. The law regarding computer crimes (Section 502) first began to develop in the late 1970s.

Probate Code - Although codified in 1931 as the first effort of the Code Commission, the California Law Revision Commission has presented bills to the legislature in the last twenty-five years that have completely rewritten the Probate Law, culminating with the recodification of Chapter 79 of 1990. Relatively few provisions of the present Probate Code contain language or concepts that trace back to the law prior to 1975. However, take care in tracing the recent history of language, as the CLRC effort sometimes involved a couple of different bills affecting the same language or concepts almost simultaneously.

Public Contract Code - First codified by c. 306 of 1981. The vast majority of the sections in this Code are derived from provisions pulled primarily from the Government Code, or from previously uncodified statutes that applied to a particular district or entity.

Public Resources Code - Codified in 1939, the PRC was a low-profile collection of old bodies of law until the early 1970s, when the environmental provisions, such as CEQA and the Coastal Act, began to appear. Portions of CEQA have been amended so frequently, and repealed and re-enacted so many times, that code annotations can suggest an enactment date much later than the actual substantive appearance of particular language. In tracing CEQA language, always look carefully at any language to ensure that the language does not, in fact, trace back to the 1970s or older law.

Public Utilities Code - Created in 1951 as a Code Commission Codification of the Public Utilities Act. The annotated codes often list a 1915 reenactment of the 1911x Act as the derivation of modern sections. This can be misleading, as most of the language actually appears in the 1911x legislation, or in some cases, in early statutes applicable only to railroads.

Revenue & Taxation Code - California has had tax laws since 1850. Most old tax laws were property-based taxes. The declining property values during the Depression of the 1930s so threatened the State's fiscal integrity that the Legislature largely threw out all existing tax law and enacted the modern scheme of income, sales, and business franchise taxes. Even as the Legislature was enacting the laws, the Code Commission began working on a Revenue and Taxation Code, which was adopted in 1939 by Chapter 154. Some reorganizations have occurred since that time, most notably the recent consolidation of similar provisions of the individual and corporate income tax law.

Streets & Highways Code - Codified by Chapter 29, Statutes of 1935, some of the provisions are old law, but generally the code annotations are not particularly complex or difficult to trace to a single source provision.

Unemployment Insurance Code - Based on an uncodified statute, c. 352 of 1935, the code was not actually created until c. 308 of 1953.

Vehicle Code - The small, simple uncodified statutes to control motor vehicles that characterized the first twenty years of the twentieth century were replaced with a much more comprehensive and complex statute in 1924. That 1924 enactment was the foundation of the Vehicle Code codified by c. 27, Statutes of 1935. The Vehicle code was extensively reorganized and recodified on a couple of occasions, most recently and comprehensively by c.3 of the Statutes of 1959, a non-substantive legislative act.

Water Code - Codified by Chapter 368 of 1943. Much of the law regarding water quality was developed in two major enactments, in 1949 and 1969 respectively.

Welfare & Institutions Code - Codified in 1937, most of the provisions regarding care institutions date from social legislation enacted in the 1960's and 1970's. The provisions regarding elder and dependent abuse began to develop in the early 1980's.

G. A Brief Overview of Selected California Statutes

Many California statutes have long on complex histories that are not immediately apparent in a quick review of the current Codes. As an aid to your research, on this page we identify some code provisions with complex amendment histories that frequently are important to attorneys. The Code Sections discussed on this page are organized in alphabetical order by Code. For a few we summarize the history but for most of the sections listed we simply identify the original derivation. **For all the sections listed detailed breakdowns are available by Fax or e-mail upon request.**

Business and Professions Code Section 7031 – This section governing contractors right to sue to enforce their contracts has a long and complex history that dates back to the first Contractors licensing law in 1929.

Business and Professions Code Sections 16700 to 16758 – The Cartwright Act - These sections were enacted in 1941 but parts of this body of law can be traced back to the original Cartwright Act in 1907. Numerous amendments have affected one or more of these sections since 1941.

Business and Professions Code Sections 17000 to 17101 – The Unfair Practices Act – These sections were enacted in 1941 based on law that began evolving with a 1913 enactment. Much of the basic law evolved in the 1930's, and many amendments have occurred since 1941.

Business and Professions Code Sections 17200 to 17209 – Most of these sections were enacted in 1977, but 17208 was enacted as new law at that time. 17200 to 17207 were all simply moved over from Civil Code Sections. The basic law was first enacted in 1933. The law was explicitly expanded to include the unfair practices act in 1949. The word "unlawful" was added in 1963. In 1972 "deceptive advertising" was explicitly included in the act and DA's were authorized to bring actions. In 1974 City Attorneys of large cities were authorized to bring actions. In 1976 DA's were authorized to bring Civil actions, and the remedies were expanded beyond simple injunctive relief. 17209 was enacted in 1992.

Business and Professions Code Sections 17500 to 17539 – False Advertising – These sections were enacted in 1941 based on law that began evolving with a 1905 enactment. Many amendments have occurred since 1941.

Civil Code Section 52– This basic provision of the Unruh Act derives from 1905 legislation with many amendments over the intervening years.

Civil Code Sections 1750 to 1785 - These sections were enacted in 1970, and the definitional section and a few other sections have been significantly amended since that time.

Civil Code Section 2941 – Derived from legislation originally enacted in 1850 with a number of subsequent amendments.

Civil Code 3342 - The basic language in the California Dog Bite statute was enacted in 1931, and the language regarding dog bites by police dogs was added in 1988.

CCP 1021.5 - This statute authorizing attorney fees in cases resulting in a public benefit was enacted in 1977 and amended in 1993.

CCP 1280 et sequence -These arbitration provisions were largely enacted in 1961, but much of the language was drawn from earlier arbitration statutes in the 1850's and 1920's. Some amendments have occurred since 1961.

Government Code Section 6254(f) –This law regarding disclosure of law enforcement records has been subject to many amendments since Section 6254 first appeared in 1968.

Government Code Sections 12650 to 12655 –The false claims act was enacted in 1987 and has since been amended seven times and was subject to an unsuccessful voter initiative on one occasion.

Health and Safety Code Sections 33459 to 33459.8 – The Polanco Redevelopment Act derives from 1990 legislation and has been amended substantively four times, and technically amended on a couple of additional times.

Labor Code - Workers Compensation Act - The first workers compensation act in California was enacted in 1911. It was a toothless (voluntary) effort, so the Legislature in 1913 enacted a much stronger measure that forms the basis for our modern workers compensation laws, with amendments in 1915 and 1917 further strengthening the act. Much of the language of the modern law derives from these early twentieth century enactments.

B. Researching California Regulatory History

Historical Overview: The first statute that created a mechanism for collecting and publishing all regulatory actions by California State agencies was enacted in 1941. Prior to 1941 agencies engaged in making regulatory law (often as rules or orders) but each individual agency determined the form and extent of publication for their regulations. Modern records of what rules or orders existed prior to 1941 are spotty.

After the 1941 statute the first Code of Regulations was finally published as the California Administrative Code beginning in 1945. The official name changed from the California Administrative Code to the California Code of Regulations in the late 1980's.

Research Sources: The office of administrative law provides the CCR online with annotations at <http://www.oal.ca.gov/> (link in the upper left hand corner). If you don't have access to the web page Barclay's publications can provide the text of the sections and some historical annotations, although many sections have long histories that predate the Barclay annotations, which often only cover activity from the early 1990's forward. Once you have the annotations only the most basic research on sections from the California Code of Regulations can be done in most law libraries. Some law libraries may contain the weekly administrative registers where regulations have been published since 1945 but even the registers provide only the text of the changes in language. For older regulatory enactments (pre – 1970) some information may be available at the State Archives, the California State Library, or from the agency, although it is rare to find much. From 1970 to 1979 the amount of documentation from these sources improves, but is still spotty. However for research from this era the agencies often published summaries of the changes they proposed in the notice (Z) register. Since 1979 promulgating agencies have been required to develop and maintain formal rule-making files when promulgating regulations and those files are supposed to be available from the agency. However it took a couple of years for many agencies to establish protocols to retain the records, so often files that should be available for the early 1980's have been lost.

Research process: Generally the first, and often most difficult step, is to determine when the particular language you are focusing upon was adopted. CCR annotations can be of some help, and there are some indexes available, but often you simply have to track backward in the administrative registers until you find the date the language was adopted. From there you can begin your search with the various potential sources. Finding the date for notice (Z-register) publications can sometimes be done by referring to the original regulatory filing file at the State Archives. Generally the most detailed substantive materials are going to come from the files of the promulgating agency, where available. The first step is to call the particular agency legal or legislative office to find the person who handles rulemaking file archives. Occasionally the agency may copy the file for you, but more often you or a representative will have to go to the agencies offices in Sacramento (or occasionally San Francisco or Los Angeles) to review the file. The files are sometimes very voluminous, and much of the material is often redundant or not substantively useful.

II. Researching Federal Law

A. Defining Some Common Federal Legislative Terms

Chaptered Statute – (See also the definition of Public Law below).

Each year, the Congress publishes the bills enacted in that year, organized according to the order in which the President signed the bill, rather than by subject matter, in the Statutes of (year). The first bill signed by the President in that year is Chapter 1, the second is Chapter 2, etc. While the bills' provisions may be changing many different provisions of many codes, the overall bill text becomes Chapter (xx) of the Statutes of (xxxx).

Committee Hearing Transcripts – Recorded proceedings of Committee hearings, typically on one bill or a group of bills on a particular subject matter.

Committee Prints – Reports published by Congressional Committees addressing topics of legislation.

Committee Reports – Reports published by Congressional Committees at the time they send a bill out to the floor setting forth the background behind the bill and the purpose of its provisions.

Congressional Record – Recorded proceedings of the Congress that occur on the floor of the House and Senate.

Floor - Shorthand for House floor, or Senate floor; refers to matters under consideration by the entire House or Senate, as opposed to matters being considered by committees composed of some portion of the entire body.

House/Senate Bill - A formal proposal to add, amend or repeal some provision of existing Federal statutory law. Abbreviated H.R. or S, Congressional bills are reprinted each time amendments are adopted.

Public Law – Federal law allows two types of actions by Congress. Private laws affect only specified persons. Public Laws are laws of general applicability. So the Chaptered Statutes for each Congressional Session will contain both private and public laws. Since very few people have an interest in any particular private law, Congress publishes compilations of only the public laws. The public law number is named by the letters PL followed by the Congressional Session (i.e. 99 for the 99th Congress) followed by the number assigned to this public law among all public laws. Public Law number is often a more accessible tool to use in researching Federal statutory intent.

Uncodified Statute - A bill approved by the legislature and signed by the governor that, organizationally, has not been formatted for incorporation into a Code. Originally, all statutory law was uncodified statutes (See definition for Chaptered Statute above). Codes were created to provide a secondary organizational structure to make the law more accessible.

C. A Short Summary of the Federal Legislative Process

The Process - The Congress consists of the House and the Senate. All Federal legislation is enacted by Congressional and Presidential approval (or veto override) of either a House Bill (H.R.), or a Senate Bill (S.). Bills introduced in the House by members of the House are House Bills, while bills introduced in the Senate by members of the Senate are Senate Bills (S).

The process followed by both House Bills and Senate Bills is similar. Throughout the process, a bill can be amended by vote on the floor of the house in which the bill is then pending. If the bill fails to get the necessary votes for approval, either in committee or on the floor, the bill dies.

Using a House Bill as an example of the process, once a House Bill has been introduced it is sent to a policy committee in the House for consideration. If the committee approves the bill, it is sent to the House floor for consideration by all the members of the House, unless the bill has fiscal ramifications for the state budget, in which case it may also be sent to an House fiscal committee before being sent to the floor. Once on the floor, at the completion of committee deliberations, the members vote on final approval. If approved, the bill is then sent from the House to the Senate, where it will be considered by a Senate policy committee, fiscal committee and then on the Senate floor.

If approved by the Senate in the same form as approved by the House, the bill will then go to the President. If the Senate amended the bill, the House must accept the changes before the bill is sent to the President. If the House does not accept the Senate changes, the Senate and House will form a conference committee composed of a few members of each house to negotiate language acceptable to both houses. If the negotiation is successful and both houses accept the negotiated language, the bill is then sent to the President.

An SB will follow the same process, but will proceed through the Senate first, then go to the House.

The real process: Congress tends not to act on individual bills, but instead to clump bills together into larger and larger omnibus proposals, then pass an 800 page monster as the year draws to a close. The lumping together process usually occurs in Committees where individual bills die and their provisions are reincarnated in new bills with many provisions. This death and reincarnation process may happen repeatedly before any particular provision is finally approved by Congress, so finding the history of any particular part of the final product can often be rather like trying to trace a single leaf of a huge tree down to a source deep in the roots.

C. Researching Federal Statutes: Many of the definitions and basic legislative procedures discussed above for California law are broadly similar to the terminology and process used by Congress. However the nature of the documents available are significantly different. For example, while California publishes committee reports before legislative hearings for use by the legislators, Congressional committee reports are after the fact statements of intent. In general the Congressional legislative process is much more voluminously documented than State legislative deliberations. The primary sources for Congressional legislative intent can be found in the Congressional Record, applicable committee reports, or committee prints, and committee hearing transcripts.

Quick research tips: The difficulty with performing legislative intent research on federal statutes comes from two factors. First, there is an enormous amount of material published by Congress that may be potentially useful to any particular statutory language. Second, as discussed above, Congress has a tendency to move concepts from bill to bill and then throw scores, or even hundreds of different proposals into one omnibus bill and enact the whole package. Good federal research often depends on your ability to track language back from the omnibus bill that enacted the language through the prior proposals to the original proposal where the concepts were actually developed or discussed. Reviewing actual bill copies for the language in which you are interested is the primary mechanism to track back in time. (You can often determine the bills by reviewing the Congressional indexes prepared by various services) Once you have identified the first time the language appeared in a bill you can look for the committee deliberations that produced the bill, or the author's statement when he introduced the bill. Keep in mind you may be going back 4, 6, eight, perhaps even 10 years, as concepts may be pending in Congress for many years before being finally enacted.

Source of documents: Large portions of research on many Federal statutes enacted in the last couple decades can be found from various on-line sources. Perhaps the most comprehensive source is found at the Library of Congress web site, <http://thomas.loc.gov/>. The materials found at this site will usually include the text and procedural histories of the bills, committee reports and Congressional record excerpts. Hearing transcripts and other publications are not available on line, but are usually available either in print or microfilm at any Federal Depository library. Older Federal research materials will only be found at a Federal Depository Library.

D. Code of Federal Regulations: Research on the Code of Federal Regulations begins with the Code itself, and the annotations to the Federal Register found in the Code. When you locate adoption publications in the Federal Register they often must be read carefully for references to other publication dates on the same topic. For later years the CFR does have fairly extensive indexing that can often be helpful in determining the location of pertinent provisions.

III. Research on the Law of Other Jurisdictions

A. Other States: Few other States are similar to California in the types of materials available for legislative history. For many other states the primary source of legislative history are actual minutes of the

committee deliberations. For many states one can only go back a couple of decades, due to the relatively small size of the legislative staffs in small states. For phone numbers, links and information on specific states go to: www.naj.net and find the link for other states. Additional information may be available at The Washington DC law librarians site, www.llsdc.org/sourcebook .

B. Local Governments - Local Government ordinances generally require a visit to the jurisdiction in question to review archival and library sources. Even in the largest jurisdictions the research can be slow, tedious, and the amount of useful material may be limited, particularly as one moves back in time researching older provisions.

Some Online Sources and Contacts Useful for Legislative Intent Research

California Legislative Materials: www.leginfo.ca.gov/bilinfo.html

California State Assembly Chief Clerk:
<http://192.234.213.35/clerkarchive/>

Legislative Counsel history of the California Legislature
<http://www.leginfo.ca.gov/pdf/caleg6.pdf>

California Law Revision Commission: www.clrc.ca.gov

California Regulations: <http://ccr.oal.ca.gov/>

State agency index – Link on government link from:
www.ca.gov/state/portal/myca_homepage.jsp

Acts of Congress: <http://thomas.loc.gov/>

US Code: <http://uscode.house.gov/usc.htm>

Code of Federal Regulations and Federal Register:
www.access.gpo.gov/nara/cfr

Our webpage: www.naj.net.

Attachment A

Sample Code Section demonstrating format for notations pertinent to legislative history:

Item	Sample language typical to code annotations	Comments
	<p>Sample Code Section 1947 -</p> <p>It shall be unlawful to do this, that or the other thing, or to do that, this or the other thing. Any violation of the section shall be a misdemeanor, unless you are a Dodger's fan, in which case it will be a felony.</p> <p>(a) Any person damaged by a violation of this section shall have a private right of action for damages. Damages shall include the fair value of:</p> <p style="padding-left: 20px;">(1) lost profits;</p> <p style="padding-left: 20px;">(2) lost wages;</p> <p style="padding-left: 20px;">(3) lost car keys; and/or</p> <p>(4) any other reasonable or unreasonable claim that arises from your fertile imagination.</p> <p>(b) Actions under this section shall be commenced within three years of the date of injury, except that actions by a person whose last name begins with R shall be tolled until such person decides they want to sue.</p>	
1.	<p>(Added by Stats.1955 c. 1200, p.4444, Section 2, amended by Stats. 1975 c. 1100, p. 3333, Section 1, Stats. 1998 c. 12, p. 344, Section 2)</p> <p style="text-align: center;">Historical and Statutory Notes</p>	<p>1. <i>At the end of the actual text of the section are legislative history annotations. When a section is repealed and reenacted rather than simply amended, the annotated codes start this history list from the most recent reenactment.</i></p> <p>2. <i>The bound volumes of Deerings and West's usually follow with historical notes where they summarize changes made since the most recent enactment or reenactment. Online or CD versions of the codes are much less reliable in their legislative history annotations.</i></p> <p>3. <i>Code maintenance references signify the amendment was making technical corrections to the Codes. Code Maintenance bills are expressly stated to have no substantive effect.</i></p>
2.	1975: Added subdivision designations, in subdivision (a) added (2).	4. Distinguish between "Former Section" which are annotations regarding (usually) statutory text on a different subject previously using the same section number, and "Derivation" which is the history of the actual language of the present section.
3.	1998: Code maintenance.	5. Low chapter number from 1930 through 1950 – may be Codification bill without substantive effect.
4.	Former Section: Stats. 1949 c. 2222, p. 2222, Section 1, amended by Stats. 1950 c.1100, p.3333, Section 2.	6. Absence of enactment annotation signifies it was enacted in 1872 Code.
5.	Derivation: Former Sample Code Section 2174 added by Stats. 1943, c. 90 , p. 1111, Section 4.	7. Annotations typical for pre-codification statutes. The language of Section 1 of the 1917 statute will be what later bills amend, but each bill has its own internal section numbering, so Section 4 of 1923 will be amending Section 1 of the 1917 act.
6.	Former Civil Code Section 9999, amended by 1907 c. 444, p. 555, Section 1	8. Very little typically available on enactments pre 1872.
7.	Stats. 1917 c. 3553, p. 5335, Section 1, Stats 1923, c.6666, p. 5555, Section 4 , Stats. 1929 c. 232, p. 232, Section 1, Stats 1935 c. 323, p. 232, Section 2.	9. California Law Revision Commission Comments are comments of the CLRC that have been formally adopted as legislative intent by the legislature through some form of official publication in the Assembly or Senate Journal.
8.	Stats. 1850 c. 123, p. 343, Section 4.	10. Legislative Committee Comment is a reproduction of reports printed in the Journal of the Senate or Assembly. They are rare, most often appearing as revisions to CLRC comments.
9.	California Law Revisions Commission Comment: We proposed this because we think it is a good idea.	
10.	Legislative Committee Comment: We do to.	