

How to Compile a California Legislative History

March 2009

I. INTRODUCTION

Courts can employ a variety of different methods to ascertain the purpose of a statute. They may look to the plain language of the statute, apply rules of statutory construction, or consider prior case law. Courts can also use legislative histories as an aid in interpreting statutes. A legislative history is a compilation of documents containing the information considered by the legislature when it enacted the statute. Such materials may be useful in determining legislative intent.

This guide provides you with information on how to research legislative histories in California. The main focus is on print resources available in the Gordon D. Schaber Law Library and free web-based sources. Limited coverage of paid resources is also provided.

II. HINTS – WHERE TO BEGIN

Researching the legislative history of a California statute can be difficult. There are few resources that provide information to assist in finding legislative intent documents, and only a relatively small number of compiled legislative histories are available without charge. In addition, many of the materials that are available cover only a limited number of statutes. The following sources are both useful as a starting point for research and can provide important information about the legislative intent. Your first step should be to determine if the courts have already interpreted your statute and its intent. After completing this step, you should look to other sources that may provide you with citations to legislative intent documents.

A. CASES

You should begin by determining if any courts have already interpreted and established the legislative intent of the statute. You will want to check the annotated statutory codes (West's and Deering's). In addition, you should Shepardize and KeyCite your statute.

B. COMPILED SOURCES

The following sources should also be checked early in the research process. These materials will not cover every piece of legislation, but they may contain a great deal of information if coverage is provided.

1. *Review of Selected California Legislation, McGeorge Law Review*, previously known as the *Pacific Law Journal* (1970-Present) located in the California Reading Room at

KFC27.R48 S71. The *McGeorge Law Review* publishes a Review of Selected California Legislation also known as “Green Sheets” each year. Legislative history information for each of the covered bills is provided.

2. *Review of Selected Code Legislation, Continuing Education of the Bar (1955-1969)*, located in the California Reading Room at KFC27.R48 S71. The predecessor to the “Green Sheets” published in the *McGeorge Law Review*. It contains a review of selected California bills.
3. Check other law reviews for articles. You can search several on-line databases for law review articles including Hein Online, LegalTrac, Lexis and Westlaw.
4. *Deering’s California Codes Annotated* and *West’s Annotated California Codes*. A small number of code sections have references to legislative history materials in their accompanying annotations. The Deering’s and West’s code sets can be located in the Reference Room, Stacks-1 and the California Reading Room at KFC30.5 D4 and KFC30.5 W4 (respectively), and on Lexis and Westlaw.

III. DOING A LEGISLATIVE HISTORY

A. GATHERING BACKGROUND INFORMATION

You should begin your legislative history by gathering information about your piece of legislation, such as when it was introduced, who sponsored it, and the committees to which the bill was assigned. This information is crucial to locating the relevant documents later in your search.

1. Your first step should be to retrieve the legislation’s citation to *Statutes and Amendments to the Codes*. You can locate this citation at the end of the code section in Deering’s or West’s annotated codes (e.g. Stats 1953 ch 1966). In addition, look for other included information such as the bill number, which are included with recent statute citations.
2. Determine the bill number and author. This information can be found in *Statutes and Amendments to the Codes*, which is available in print in the California Reading Room (1851 to present) and in microfiche (1849 to present) at KFC25 .A22. Then locate the “Legislative Counsel Digest” or “Summary Digest” in *Statutes and Amendments to the Codes*. In the print version, the “Legislative Counsel Digest” is located in the unbound volumes directly before the text of the statute. In the bound volumes, the “Summary Digest” appears in the final volume of each year. The bill number and author can also be found online with the chapter laws on the California Legislative Counsel’s website at <http://www.leginfo.ca.gov/> (1993 to present).
3. Then ascertain what actions were taken on your bill. You will need to determine what amendments may have been offered, when floor debates occurred, and the committees to which the bill was assigned. The following resources can be used to determine this information:
 - 1909-1972 — *Final Calendar of Legislative Business* located in the California Reading Room at KFC14 .C37.

- 1973/74 to Present — *Assembly Final History* or *Senate Final History* located in the California Reading Room at KFC14.C372 & KFC14.C374 (respectively) or at the California State Assembly – Office of the Chief Clerk – Official Publication Archives website at <http://192.234.213.35/clerkarchive/>.
- 1993 to Present — California Legislative Counsel's website at <http://www.leginfo.ca.gov/>.
- 1863 to Present — *Journal of the Senate* (Index to Bills and Bill Action Index located in the Journal). Available in the California Reading Room at KFC14 .C36 or at the California State Assembly – Office of the Chief Clerk – Official Publication Archives website at <http://192.234.213.35/clerkarchive/>.
- 1863; 1909 to Present — *Journal of the Assembly* (Index to Bills and Bill Action Index located in the Journal). Available in the California Reading Room at KFC14 .C35 or at the California State Assembly – Office of the Chief Clerk – Official Publication Archives website at <http://192.234.213.35/clerkarchive/>.

B. FINDING DOCUMENTS TO DETERMINE LEGISLATIVE INTENT

Listed below are several types of documents that could be used to help determine legislative intent. However, all of these documents may not exist for your bill. Furthermore, some types of documents are more useful than others in judging legislative intent.

Not all information is published or available at the Gordon D. Schaber Law Library. Many items are only available at the State Archives and to do a thorough search you will need to check those files.

1. Text of the Bill and Amendments

The first step is to find all the versions of the bill and the amendments proposed to the bill. This is often one of the most important pieces of legislative history as other types of items may not exist for your bill.

The text and amendments to the bill can be found in microfiche in the *California Bills and Resolutions* set at call number KFC6 .C34 or for post-1993 bills on the California Legislative Counsel's website at <http://www.leginfo.ca.gov/>. Both Lexis and Westlaw also have the text of the bills and amendments dating back to 1991.

Like the final version of the bill which is published in *Statutes and Amendments to the Codes*, each bill found on the California Legislative Counsel's website also includes a "Legislative Counsel Digest" discussion prior to the actual text of the bill. A summary of the changes may be discussed in the Legislative Counsel Digest.

Look in *Statutes and Amendments to the Codes* to determine if an Urgency Statement or other message of intent was included in the text of the bill. Urgency Statements are statements included in the bill itself that explain why a bill will take effect immediately upon enactment. These statements and other messages of intent, which are enacted as part of the statute, are often not included with the

codified version of the law. Urgency Statements may also be found in the Senate or Assembly Journals or in the Governor's file at the State Archive.

At this stage of the process you are looking at statutory construction issues. For example, how does the placement of a comma affect the meaning of the bill? You may want to consult treatises on statutory construction, such as *Sutherland on Statutory Construction* (located in the Treatise Room at call number KF425 .S25 2000).

2. Legislative Counsel Digest

The final version of the bill published in *Statutes and Amendments to the Codes* includes a "Legislative Counsel Digest" discussion or "Summary Digest" discussion. The "Legislative Counsel Digest" can be found directly before each statute in unbound volumes or in the last volume of the bound volumes where it is called the "Summary Digest." It often contains a summary of the bill and other information.

3. Committee Analysis

The Committee Analysis is a summary of information regarding the bill. It includes a summary of the committee actions, the proposed fiscal effect of the bill, a summary of comments and other information. These documents are prepared by the staff of the committees and are not full-text documents of the committee's action such as a transcript of a hearing or a committee report. However, a Committee Analysis can still provide useful information. Post-1993 committee analyses can be found at the California Legislative Counsel's website at <http://www.leginfo.ca.gov>. In addition, both Lexis and Westlaw have committee analyses from 1991 forward.

4. Assembly File Analysis

From the 1975 to 2002 the Assembly Office of Research prepared analyses for both Senate and Assembly Bills. The Assembly File Analysis contains committee actions, a digest of the proposed legislation, the fiscal effect and comments on each bill. The Assembly File Analysis can be located in the microfiche cabinets at call number KFC6 .A87.

5. Legislative Counsel Analyses / Legislative Counsel Opinions

A legislator may request a Legislative Counsel Opinion interpreting proposed legislation. These opinions may be published in the *Journal of the Assembly* or the *Journal of the Senate*. Use the indexes in these publications to determine if any opinions are published in a given year. Check under the heading "Legislative Counsel, opinion re" or under legislative counsel. Note that not all Legislative Counsel Opinions are printed the journals.

6. Floor Debates

Unlike the federal system, California does not transcribe floor debates. However, a summary of floor debates may be available on your bill. For bills enacted after 1993 these summaries can be found on the California Legislative Counsel's website at <http://www.leginfo.ca.gov/>. Prior to 1993, summaries of floor debates were

occasionally published in the *Journal of the Assembly* or *Journal of the Senate*.

The California Legislative Portal website at <http://www.legislature.ca.gov/> also provides webcasts of some floor debates.

7. Committee Hearings and Reports

Few Committee Hearings and Reports are actually published. The resources available depend on the age of the legislation. The following finding tools should be consulted to help determine if there are any published hearings or reports on your bill. However, a thorough search will require you to go the State Archives and check the Committee files. After identifying a published hearing, do a title search in GoCat (our online catalog) to determine if a copy is available at the Gordon D. Schaber Law Library. If a copy is not available you may need to go to the State Archives or try to interlibrary loan a copy of the hearing or report.

The following sources can be used to assist in locating hearing and reports:

- *Journal of the Senate* and *Journal of the Assembly*. These sources may reference reports, and may also contain summaries of hearings and reports. In addition, the Appendices of the journals of the Senate (1946 to 1970) and the Assembly (1956 to 1970) contained selected reports of the standing and joint committees of the California legislature.
- *California Legislative Hearings and Reports* (1984 to Present). This searchable database lists all California Hearings and Reports available at the Hasting Law Library website at <http://library.uchastings.edu/cgi-bin/starfinder/0?path=calacq.txt&id=webber&pass=webber&OK=OKASDFD>.
- California Legislative Portal website at <http://www.legislature.ca.gov/> provides webcasts of some hearings.
- Indexes: These sources list some but not all reports and hearing transcripts that are printed:
 - 1937-1953 — *Chronological List of California Legislative Interim Committees and Their Reports* is located in the Treatise Room at KFC20 .C33.
 - 1937-1984 — *Hearings and Reports of Committees of the California Legislature* is located in the Treatise Room at KFC20 .C36.
 - 1953/55-1967/69 — *California Interim Legislative Committee* is located in the Treatise Room at KFC20 .C34.
 - 1965-1984 — *Numerical List of Assembly Publications* is located in the Treatise Room at KFC20 .C31.
 - 1969-1976 — *California Legislative Committees and Reports* is located in Treatise Room at KFC 20 C35 1969-1976.

- 1984-1988 — *Joint Publications Catalog* is located in the Treatise Room at KFC20 .C32.
- 1989-1992 — *Assembly Publications Catalog* located at Witkin State Law Library of California.
- 1995-present -Senate Publications available on the web at <http://sinet2.sen.ca.gov/publications/>
- 2001 to Present — California State Publications available on the web at http://www.lib.state.ca.us/Web2/tramp2.exe/log_in?quest&SETTING_KEY=English&screen=csp_index.html

8. Letters of Intent

Letters of Intent may be provided by the legislature when the bill is sent to the governor for signing. Letters of Intent are a statement about the legislative intent and may be published in the journals of the Assembly or Senate. The Governor's file or the bill author's file at the State Archive may also contain this information. To determine if a Letter of Intent is published in the *Journal of the Assembly* or *Journal of the Senate* check the index to each journal under the following headings:

- Bill number
- Bill's authors
- Legislative intent,
- Communications,
 1. Letter of Intent or
 2. Bill's author's name
- Journal
 1. Motions and requests or
 2. Bill's author's name

9. Statements by the Governor

Signing documents or other statements made by the governor may be of use in determining legislative intent. Check the Governor's file at the State Archive for signing documents. Some Press Releases, Speeches, Executive Orders and Proclamations may also be found on the Governor's website at <http://gov.ca.gov/news-room>.

C. OTHER SOURCES

The documents listed above are direct legislative history items. However, several other important types of documents have been accepted by courts as acceptable sources of legislative intent. These documents may also provide you with additional background information. These include California Law Revision Commission Reports, Attorney General Opinions, and Agency Opinions.

1. California Law Revision Commission Reports

The California Law Revision Commission was created in 1953 and given responsibility for the continuing review of California statutes and making recommendations to the legislature for possible revisions. *The California Law Revision Commission Reports* (1957-current) are located in the California Reading Room at KFC27.A3 C345, or at <http://www.clrc.ca.gov/>.

2. Attorney General Opinions

An Attorney General Opinion can be authorized by members of the legislature. The Attorney General Opinions can be located in the California Reading Room at KFC780 .A55, in microfilm at KF5406 .A619 or on the Office of the Attorney General, State of California website at <http://www.ag.ca.gov/opinions/searchOpinions.php?PHPSESSID=2d75c4db80e1d06a8525a05f082501a5>.

3. Agency Opinions

If a bill is sponsored by an agency you should look to determine if that agency has published any information on why it felt the bill was needed. Finding such information can be difficult. Check the agency website and see if there is an agency file at the State Archives.

D. SECONDARY SOURCES

The following sources may be used as a finding tool and in many cases may also provide substantive information.

- Journal and newspaper articles can be used to locate discussions about legislation and references to reports and hearings. The library subscribes to a variety of legal and non-legal newspapers. Check the catalog for a list. Also check various on-line sources including LegalTrac, ProQuest, Gale's Academic OneFile, Readex's *Sacramento Bee*, Lexis and Westlaw. Examples of journal and newspapers include:
 - Legal newspapers (*Los Angeles Daily Journal*).
 - Local newspapers (*Sacramento Bee*).
 - State government journals (*California Journal*).
 - Publications of special interest organizations (California Trial Lawyers Association).
- National Conference of Commissioners on Uniform State Laws makes recommendations for the passage of various uniform laws. If the law was passed based on such a recommendation, examine the *Handbook of the National Conference of Commissioners on Uniform State Laws* (1892-1933, 1944-1989). Located in the Treatise Room and Fiche Cabinets at KF165.A2 N38.
- If the law is based on another state's law then an examination of the legislative intent of the original state could be useful. You will want to check for law reviews articles or you may want to look at the legislative history in the original state. A quick reference

to various research guides for compiling legislative histories can be located at *The State Legislative History Research Guides and State Legislatures on the Web* at [http://www.law.indiana.edu/library/services/sta leg.shtml](http://www.law.indiana.edu/library/services/sta_leg.shtml).

E. ADDITIONAL RESOURCES

The following materials are recommended reading to assist you when completing a California Legislative History.

- "Legislative Intent," Chapter 4, *Henke's California Law Guide*, 8th ed. 2006, by Daniel W. Martin. Located in the Reference Room at REF KFC 74 H45 2006.
- Rose, Carolina, *California Legislative History and Intent: Research & Practice Guide*, 2003. Located on Reserve at KFC74 .R67 or on the web at <http://www.lrihistory.com/guide.pdf>.

F. HIRING A COMMERCIAL LEGISLATIVE RESEARCH SERVICE.

You might consider hiring one of the several commercial legislative research services if you want an expert legislative history.

IV. CONTACT THE CALIFORNIA STATE ARCHIVES

After completing the above steps you will still need to contact the California State Archives. The California State Archives files could contain additional information not available through the library, the internet, or even through paid databases such Westlaw or Lexis.

The California State Archives is located at 1020 "O" Street, 4th Floor Sacramento, California 95814. The general phone is (916) 653-7715 or (916) 653-2246. For more please see California State Archives website at <http://www.ss.ca.gov/archives/archives.htm>. The State Archive does not provide a digital archive on their website.

Some of the types of documents available at the Archives include:

- Governor's Chaptered Bill File (1943-2003)
- Committee Bill Files (1960-)
- Committee Hearing Files (1940-)
- Authors' Bill Files (ca. 1950-)
- Videotapes of selected floor sessions and committee hearings
 - Senate, 1992-
 - Assembly, 1990-
- Agency Legislative Records (dates vary)
- Caucus Bill Files (1973-)
- Legislative Bill File (1849-)
- A few published committee reports or hearings