

RESOLUTION 05-01-2019

DIGEST

Waiver of Fees for Nunc Pro Tunc Correction of Orders

Amends Government Code section 70657 to create an exception for applications to correct Orders Nunc Pro Tunc.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Government Code section 70657 to read as follows:

- 1 §70657
2 (a) Except as provided in subdivision (c), the uniform fee for filing a motion or other
3 paper requiring a hearing subsequent to the first paper in a proceeding under the Probate Code,
4 other than a petition or application or opposition described in Sections 70657.5 and 70658, is
5 sixty dollars (\$60). This fee shall be charged for the following papers:
6 (1) Papers listed in subdivision (a) of Section 70617.
7 (2) Applications for ex parte relief, whether or not notice of the application to any person
8 is required, except (1) an ex parte petition for discharge of a personal representative, conservator,
9 or guardian upon completion of a court-ordered distribution or transfer, for which no fee shall be
10 charged and (2) an ex parte application to correct court orders nunc pro tunc.
11 (3) Petitions or applications, or objections, filed subsequent to issuance of temporary
12 letters of conservatorship or guardianship or letters of conservatorship or guardianship that are
13 not subject to the filing fee provided in subdivision (a) of Section 70658.
14 (4) The first or subsequent petition for temporary letters of conservatorship or
15 guardianship.
16 (b) There shall be no fee under subdivision (a) for filing any of the papers listed under
17 subdivision (b) of Section 70617.
18 (c) The summary judgment fee provided in subdivision (d) of Section 70617 shall apply
19 to summary judgment motions in proceedings under the Probate Code.
20 (d) Regardless of whether each motion or matter is heard at a single hearing or at separate
21 hearings, the filing fees required by subdivisions (a) and (c) apply separately to each motion or
22 other paper filed. The Judicial Council may publish rules to give uniform guidance to courts in
23 applying fees under this section.
24 (e) No fee is payable under this section for a petition or opposition filed subsequent to
25 issuance of letters of temporary guardianship or letters of guardianship in a guardianship
26 described in Section 70654.
27 (f) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is
28 repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019,
29 deletes or extends the dates on which it becomes inoperative and is repealed.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of Northern San Diego County.

STATEMENT OF REASONS

The Problem: Current law requires a \$60 fee for all ex parte applications, including correction of Orders Nunc Pro Tunc. Minute Orders, particularly in probate matters, are more and more being adopted as the Order of the Court. However, now and then, mistakes are made by the clerk in entering the text of the Order. To make a correction to a court Order Nunc Pro Tunc, an ex parte application and hearing is required, which carries with it a \$60 fee under Government Code section 70657. This adds an additional financial burden for the party who needs to correct the error made through no fault of their own.

The Solution: This resolution creates an exception for ex parte applications to correct court Orders Nunc Pro Tunc so that no additional fee needs to be paid. Although it puts a financial burden on an already over-burdened court, such burden would be minimal and would encourage entry of correct and complete orders.

IMPACT STATEMENT

Related to Government Code sections Sections 70617, 70654, 70657.5, and 70658, all referenced in Section 70657 being amended.

CURRENT OR PRIOR RELATED LEGISLATION:

None known.

AUTHOR AND/OR PERMANENT CONTACT: Debra Leffler Streeter, Streeter Law Group, APC, 217 Civic Center Drive, Ste. 10, Vista, CA 92084; (760) 945-9353; dstreeter@streeterlaw.com.

RESPONSIBLE FLOOR DELEGATE: Mary V.J. Cataldo, Procopio, Cory, Hargreaves & Savitch, LLP, 12544 High Bluff Drive, Ste. 300, San Diego, CA 92130; (760) 444-1773; mary.cataldo@procopio.com.

RESOLUTION 05-02-2019

DIGEST

Courthouses: Lactation Rooms for Jurors, Witnesses, Lawyers, and Parties.

Amends Labor Code section 1030 to give breastfeeding jurors, lawyers, witnesses, and parties the right to use a court’s lactation room.

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that legislation be sponsored to amend Labor Code sections 1030 as follows:

- 1 §1030.
- 2 Every employer, including the state and any political subdivision, shall provide a
- 3 reasonable amount of break time to accommodate an employee desiring to express breast milk
- 4 for the employee’s infant child. The break time shall, if possible, run concurrently with any break
- 5 time already provided to the employee. Break time for an employee that does not run
- 6 concurrently with the rest time authorized for the employee by the applicable wage order of the
- 7 Industrial Welfare Commission shall be unpaid. Courthouses shall offer the use of lactation
- 8 rooms as required by section 1031-1035 to jurors, witnesses, lawyers, and parties having lawful
- 9 business before the court, subject to the administration of justice.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem: Currently, breastfeeding mothers who have business before the court as jurors, witnesses, parties, or lawyers are regularly required to breastfeed in their cars, or while sitting on a toilet in the courthouse bathroom. Not only is this system unhygienic and disrespectful, it places courthouse-working moms at a disadvantage in a the course of their employment, discourages breastfeeding jurors from service, and needlessly imposes suffering on witnesses and parties who have a legal obligation to spend days, weeks, or months in the courthouse.

The Solution: This resolution would clarify that, for the purposes of the labor code provisions requiring employers to provide employees with access to a clean, functional lactation rooms, courthouses are required to make a lactation room available to those having lawful business before the court.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT: Arwen Johnson, Boies, Schiller, Flexner, LLP, 725 S. Figueroa St., 31st Floor, LA CA 90017, phone (213)-995-5724, e-mail ajohnson@bsfllp.com

RESPONSIBLE FLOOR DELEGATE: Arwen Johnson

RESOLUTION 05-03-2019

DIGEST

Disqualification of Judge: Lengthens Time to File a Writ of Mandate

Amends Code of Civil Procedure section 170.3 to lengthen the time a party has to file a writ for an order for disqualification of a judge.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 170.3 to read as follows:

1 §170.3

2 (a) (1) If a judge determines himself or herself to be disqualified, the judge shall notify
3 the presiding judge of the court of his or her recusal and shall not further participate in the
4 proceeding, except as provided in Section 170.4, unless his or her disqualification is waived by
5 the parties as provided in subdivision (b).

6 (2) If the judge disqualifying himself or herself is the only judge or the presiding judge of
7 the court, the notification shall be sent to the person having authority to assign another judge to
8 replace the disqualified judge.

9 (b) (1) A judge who determines himself or herself to be disqualified after disclosing the
10 basis for his or her disqualification on the record may ask the parties and their attorneys whether
11 they wish to waive the disqualification, except where the basis for disqualification is as provided
12 in paragraph (2). A waiver of disqualification shall recite the basis for the disqualification, and is
13 effective only when signed by all parties and their attorneys and filed in the record.

14 (2) There shall be no waiver of disqualification if the basis therefor is either of the
15 following:

16 (A) The judge has a personal bias or prejudice concerning a party.

17 (B) The judge served as an attorney in the matter in controversy, or the judge has been a
18 material witness concerning that matter.

19 (3) The judge shall not seek to induce a waiver and shall avoid any effort to discover
20 which lawyers or parties favored or opposed a waiver of disqualification.

21 (4) If grounds for disqualification are first learned of or arise after the judge has made one
22 or more rulings in a proceeding, but before the judge has completed judicial action in a
23 proceeding, the judge shall, unless the disqualification be waived, disqualify himself or herself,
24 but in the absence of good cause the rulings he or she has made up to that time shall not be set
25 aside by the judge who replaces the disqualified judge.

26 (c)(1) If a judge who should disqualify himself or herself refuses or fails to do so, any
27 party may file with the clerk a written verified statement objecting to the hearing or trial before
28 the judge and setting forth the facts constituting the grounds for disqualification of the judge. The
29 statement shall be presented at the earliest practicable opportunity after discovery of the facts
30 constituting the ground for disqualification. Copies of the statement shall be served on each party
31 or his or her attorney who has appeared and shall be personally served on the judge alleged to be
32 disqualified, or on his or her clerk, provided that the judge is present in the courthouse or in
33 chambers.

34 (2) Without conceding his or her disqualification, a judge whose impartiality has been
35 challenged by the filing of a written statement may request any other judge agreed upon by the
36 parties to sit and act in his or her place.

37 (3) Within 10 days after the filing or service, whichever is later, the judge may file a
38 consent to disqualification in which case the judge shall notify the presiding judge or the person
39 authorized to appoint a replacement of his or her recusal as provided in subdivision (a), or the
40 judge may file a written verified answer admitting or denying any or all of the allegations
41 contained in the party's statement and setting forth any additional facts material or relevant to the
42 question of disqualification. The clerk shall forthwith transmit a copy of the judge's answer to
43 each party or his or her attorney who has appeared in the action.

44 (4) A judge who fails to file a consent or answer within the time allowed shall be deemed
45 to have consented to his or her disqualification and the clerk shall notify the presiding judge or
46 person authorized to appoint a replacement of the recusal as provided in subdivision (a).

47 (5) A judge who refuses to recuse himself or herself shall not pass upon his or her own
48 disqualification or upon the sufficiency in law, fact, or otherwise, of the statement of
49 disqualification filed by a party. In that case, the question of disqualification shall be heard and
50 determined by another judge agreed upon by all the parties who have appeared or, in the event
51 they are unable to agree within five days of notification of the judge's answer, by a judge
52 selected by the chairperson of the Judicial Council, or if the chairperson is unable to act, the vice
53 chairperson. The clerk shall notify the executive officer of the Judicial Council of the need for a
54 selection. The selection shall be made as expeditiously as possible. No challenge pursuant to this
55 subdivision or Section 170.6 may be made against the judge selected to decide the question of
56 disqualification.

57 (6) The judge deciding the question of disqualification may decide the question on the
58 basis of the statement of disqualification and answer and any written arguments as the judge
59 requests, or the judge may set the matter for hearing as promptly as practicable. If a hearing is
60 ordered, the judge shall permit the parties and the judge alleged to be disqualified to argue the
61 question of disqualification and shall for good cause shown hear evidence on any disputed issue
62 of fact. If the judge deciding the question of disqualification determines that the judge is
63 disqualified, the judge hearing the question shall notify the presiding judge or the person having
64 authority to appoint a replacement of the disqualified judge as provided in subdivision (a).

65 (d) The determination of the question of the disqualification of a judge is not an
66 appealable order and may be reviewed only by a writ of mandate from the appropriate court of
67 appeal sought only by the parties to the proceeding. The petition for the writ shall be filed and
68 served within ~~40~~ 21 days after service of written notice of entry of the court's order determining
69 the question of disqualification. If the notice of entry is served by mail, that time shall be
70 extended as provided in subdivision (a) of Section 1013.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: A writ of mandate is the exclusive remedy of appeal for review of an order denying a motion to disqualify a judge for cause under CCP section 170.3. Ten days is not

sufficient time to file a writ (which is analogous to a short appeal). The right to a fair and impartial judge is the cornerstone of our justice system. Removing roadblocks in a party's way to obtaining a fair and impartial judge will increase public confidence in our justice system.

The Solution: Give a party reasonable time to file a writ when a judge refuses to disqualify him or herself. Change it from 10 days to 21 days.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule

CURRENT OR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT: Carla DiMare, Post Office Box 1668, Rancho Santa Fe, CA 92067, (858) 775-0707, cdimare@att.net

RESPONSIBLE FLOOR DELEGATE: Carla DiMare

RESOLUTION 05-04-2019

DIGEST

Courts: Judicial Performance Evaluations

Amends Government Code section 12011.5 and Elections Code section 9083 to provide a process for evaluating judicial performance for improvement and elections.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Government Code section 12011.5 and Elections Code section 9083 to read as follows:

1 §12011.5

2 (a) In the event of a vacancy in a judicial office to be filled by appointment of the
3 Governor, or in the event that a declaration of candidacy is not filed by a judge and the Governor
4 is required under subdivision (d) of Section 16 of Article VI of the California Constitution to
5 nominate a candidate, the Governor shall first submit to a designated agency of the State Bar of
6 California the names of all potential appointees or nominees for the judicial office for evaluation
7 of their judicial qualifications.

8 (b) The membership of the designated agency of the State Bar responsible for evaluation
9 of judicial candidates shall consist of attorney members and public members with the ratio of
10 public members to attorney members determined, to the extent practical, by the ratio established
11 in Section 6013.5 of the Business and Professions Code. It is the intent of this subdivision that
12 the designated agency of the State Bar responsible for evaluation of judicial candidates shall be
13 broadly representative of the ethnic, gender, and racial diversity of the population of California
14 and composed in accordance with Sections 11140 and 11141. The further intent of this
15 subdivision is to establish a selection process for membership on the designated agency of the
16 State Bar responsible for evaluation of judicial candidates under which no member of that
17 agency shall provide inappropriate, multiple representation for purposes of this subdivision. Each
18 member of the designated agency of the State Bar responsible for evaluation of judicial
19 candidates shall complete a minimum of 60 minutes of training in the areas of fairness and bias
20 in the judicial appointments process at an orientation for new members. If the member serves
21 more than one term, the member shall complete an additional 60 minutes of that training during
22 the member's service on the designated agency of the State Bar responsible for evaluation of
23 judicial candidates.

24 [subdivisions (c) through (p) remain unchanged]

25 (q) The designated agency shall adopt and administer for all justices and judges a process
26 for evaluating judicial performance twice per term. The first evaluation shall be midway through
27 a judge's or justices term of office for the purpose of improving a judge's performance, and shall
28 not be released to the public. The second evaluation shall be at the end of the term for those who
29 file a declaration to be retained in office and shall be completed in time to be placed in the ballot
30 pamphlet in California Elections Code section 9083. The evaluation process shall include written
31 performance standards and performance reviews, which survey opinions of persons who have
32 knowledge of the justice's or judge's performance, including but not limited to attorneys, peace
33 officers, social services professionals, jurors, and court employees. The elements assessed shall

34 include, but are not restricted to, the judge’s or justice’s abilities, integrity, impartiality,
35 communication skills, professionalism, and administrative capacity. For the second evaluation,
36 the public shall be afforded a full and fair opportunity for participation in the evaluation process
37 through public hearings, dissemination of evaluation reports in standardized formats, and any
38 other methods as the designated agency deems advisable.

39
40 §9083

41 If the ballot contains a question as to the confirmation of a justice of the Supreme Court
42 or a court of appeal, the Secretary of State shall include the following in the state ballot
43 pamphlet:

44 (a) a A written explanation of the electoral procedure for justices of the Supreme Court
45 and the courts of appeal. The explanation shall state the following:

46 “Under the California Constitution, justices of the Supreme Court and the courts of
47 appeal are subject to confirmation by the voters. The public votes “yes” or “no” on whether to
48 retain each justice.

49 “These judicial offices are nonpartisan.

50 “Before a person can become an appellate justice, the Governor must submit the
51 candidate’s name to the Judicial Nominees Evaluation Commission, which is comprised of
52 public members and lawyers. The commission conducts a thorough review of the candidate’s
53 background and qualifications, with community input, and then forwards its evaluation of the
54 candidate to the Governor.

55 “The Governor then reviews the commission’s evaluation and officially nominates the
56 candidate, whose qualifications are subject to public comment before examination and review by
57 the Commission on Judicial Appointments. That commission consists of the Chief Justice of
58 California, the Attorney General of California, and a senior Presiding Justice of the Courts of
59 Appeal. The Commission on Judicial Appointments must then confirm or reject the nomination.
60 Only if confirmed does the nominee become a justice.

61 “Following confirmation, the justice is sworn into office and is subject to voter approval
62 at the next gubernatorial election, and thereafter at the conclusion of each term. The term
63 prescribed by the California Constitution for justices of the Supreme Court and courts of appeal
64 is 12 years. Justices are confirmed by the Commission on Judicial Appointments only until the
65 next gubernatorial election, at which time they run for retention of the remainder of the term, if
66 any, of their predecessor, which will be either four or eight years.”

67 (b) Information and recommendations resulting from the judicial performance
68 evaluations by the Commission on Judicial Nominees Evaluation or successor commission.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Diego County Bar Association

STATEMENT OF REASONS

The Problem: Existing law has two problems: (1) the judges do not have a sophisticated way to get anonymous feedback about their performance on the bench, and (2) the public gets little to no insight on a judge’s integrity, fairness, professionalism, and so forth when voting whether to retain a judge. The public also lacks the opportunity to provide comments to the Commission on

Judicial Nominees Evaluation about judges with whom they have interacted. That undermines judicial accountability significantly.

The Solution: This resolution provides (1) confidential feedback for judges in the middle of their term, and (2) an evaluation process for judges seeking retention. Lawyers, jurors, court employees, and others will be asked to evaluate judges they've interacted with, including their integrity, fairness, and professionalism. Judges will get to receive feedback and implement any suggestions they find worthy. Voters will get to see the evaluation results of judges in the ballot pamphlet and be able to vote with more information.

This is similar to Resolution 11-04-2016, except it addresses two concerns raised previously: (1) it includes a confidential midterm evaluation to enable judges to improve their performance, and (2) and it specifies the Commission on Judicial Nominees Evaluation instead of the Commission on Judicial Performance.

For an example of the evaluation-for-retention aspect implemented elsewhere, see here:

Alaska Judicial Council Recommendation

Judge William B. Carey, Ketchikan Superior Court

The Judicial Council finds Judge Carey to be **Qualified** and recommends unanimously that the public vote **"YES"** to retain him.

What is the Alaska Judicial Council?

- A citizens commission created by the Alaska Constitution
- Council members are volunteers appointed with due consideration for area representation and without regard to political affiliation
- Alaska's law requires the Judicial Council to evaluate judges' performance and authorizes it to recommend to voters whether judges should be retained.

What qualities did the Alaska Judicial Council evaluate?

The Judicial Council evaluated Judge Carey's:

- Integrity, diligence, fairness, demeanor, and legal ability
- Ability to manage his caseload, and
- Overall performance of judicial duties in and out of the courtroom, including judgment.

How did the Alaska Judicial Council evaluate Judge Carey?

- **Surveyed Thousands of Alaskans** – the Judicial Council surveyed thousands of Alaskans about their experience with Judge Carey. The survey ratings from attorneys, peace and probation officers, court employees, jurors, and social services professionals (social workers, and guardians ad litem) are listed below.
- **Reviewed Information** – The Judicial Council reviewed other indicators of Judge Carey's performance, including peremptory challenges, recusal rates, appellate affirmance and reversal rates, any civil or criminal litigation involving the judge, whether Judge Carey's pay was withheld for untimely decisions, and Judge Carey's assessment of his own performance.
- **Asked Members of the Public** – The Judicial Council hosted a statewide public hearing on the performance of all judges, and asked for comments from the public.

Survey Ratings for Judge Carey							
	N	Legal Ability	Impartiality	Integrity	Temperament	Diligence	Overall
Attorneys	99	4.2	4.4	4.6	4.4	4.3	4.4
Peace Officers	18	~	4.6	4.8	4.9	4.6	4.7
Court Employees	26	~	4.4	4.6	4.2	3.9	4.4
Jurors	13	~	4.8	~	4.8	~	4.8
Social Services Professionals	7	~	4.6	4.9	4.6	4.6	4.7

Rating Scale: 5 = Excellent, 4 = Good, 3 = Acceptable, 2 = Deficient, 1 = Poor

For more information go to www.ajc.state.ak.us/2018-retention-election

Alaska Judicial Council Recommendation:
Vote **"YES"** to retain **Judge Carey**

http://www.elections.alaska.gov/election/2018/General/OEPBooks/2018%20AK%20Region%20I%20pamphlet_WEB.pdf (page 85 of 84-107)

Also see here for more details on the process or inputs: <http://www.ajc.state.ak.us/2018-retention-election>

IMPACT STATEMENT

This resolution may require the Judicial Council to adopt conforming changes to Rules of Court. It might also require the State Bar of California to change its rules for the Commission on Judicial Nominees.

CURRENT OR PRIOR RELATED LEGISLATION

None known. Similar to Resolution 11-04-2016.

AUTHOR AND/OR PERMANENT CONTACT: Ben Rudin, 3830 Valley Centre Dr., Ste. 705 PMB 231, San Diego, CA 92130, (858) 256-4429, ben_rudin@hotmail.com.

RESPONSIBLE FLOOR DELEGATE: Ben Rudin

RESOLUTION 05-05-2019

DIGEST

State Secession: Allow Succession from Union

This resolution adds Government Code section 174 to permit state-wide succession from the Union.

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that legislation be sponsored to add the California Government Code to read as follows:

1 §174
2 In compliance with United States Supreme Court authority that contemplates a peaceful
3 pathway for succession “through consent of the [other] States,” *Texas v. White*, 74 U.S. 700, 725
4 (1868), the people of the State of California, through their legislative representatives, hereby
5 declare their intent to secede from the Union. Upon enactment of this section, California shall
6 seek resolutions from the legislatures of the other forty-nine states of the union, for permission
7 by a majority of them to constitutionally secede from the United States and become an
8 independent country.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Mateo County Bar Association

STATEMENT OF REASONS

The Problem: Statehood is no longer in California’s interest.

Policy. A wide plurality of Americans outside California—up to 40% of the country—consistently vote for representatives that advance policies adverse to our state and adverse to our values. Recently these representatives have supported the separation and caging of babies and children from their asylum-seeking parents, have passed laws that subsidize the fossil fuel industries, and have passed a tax cut for the wealthy projected to add \$2.3 trillion to the national debt over ten years.

Environment. Climate change is perhaps the single most urgent threat facing our state. Fires, hurricanes, and sea level rise will decimate significant parts of California in the coming decades. We are beginning to see, and breathe, the damage now. The Paradise Fire for example, was the world’s most costly disaster in 2018. Meanwhile, a wide plurality of Americans, largely in non-coastal states, celebrate America’s recent withdrawal from the Paris climate accords, the lowering of fuel economy standards, and federal plans to expand oil drilling off the California coast line.

Donor State. To add insult to injury, our state has been paying the federal government for decades for the pleasure of subjecting itself to these backwards policies—losing tens and sometimes hundreds of billions of dollars. In 2017, for example, Californians paid out \$33 billion more to the federal government than the state received back. By subsidizing failing states,

largely in the south, California props up and rewards those foreign jurisdictions for voting for national policies that damage California's interests: voting for a degradation in health care, voting for tariffs that hurt the tech sector, voting for sea level rise, forest fires, and drought.

Minority Rule. America's electoral structure is often anti-democratic.

In the executive branch, for example, a *minority* of Americans elected the president twice out of the last five cycles.

In the United States Senate, a single citizen-voter in a small state like Wyoming, South Dakota, or Alaska may have as much influence as 66 voters in California.

And because the Senate consents to the appointment of judicial officers, the will of the national minority often infects the federal judiciary. Merrick Garland, for example was appointed to the bench by President Obama in 2016. But Mitch McConnell from Kentucky (10% the size of California), President Trump (elected by a minority of voting Americans) and senators from other small states representing a minority of the American citizenry, scuttled the appointment and installed Judge Neil Gorsuch instead.

The Solution: California's is the number one economy in the country, and the fifth largest in the world. This success has happened not despite our values but because of them. California believes that facts exist, that science is real, that all citizens are equal under law, our neighbors are not some monstrous "other," and that greatness is measured by the size of our hearts not the size of our wall. California should separate from a nation which, on its current trajectory may very well fail—as immoral empires often do.

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None.

AUTHOR AND/OR PERMANENT CONTACT: B. Douglas Robbins, WOOD ROBBINS LLP, 1 Post Street, Suite 800, San Francisco, CA 94104, tel 415.247.7900 x204; fax 415.247.7901; drobbins@woodrobbins.com

RESPONSIBLE FLOOR DELEGATE: B. Douglas Robbins

RESOLUTION 05-06-2019

DIGEST

Public Holiday: Election Day

Amends Civil Code section 7.1, Education Code sections 37220, 45203, 79020, 79030, 88203 and 1100, Government Code sections 6700, 19853 and 19853.1, and Welfare and Institutions Code section 4692 to designate the Tuesday of Election Day in any even-numbered year as a holiday.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Civil Code Section 7.1; Education Code Sections 37220, 45203, 79020, 79030, 88203 and 1100; Government Code Section 6700, 19853 and 19853.1; Welfare and Institutions Code Section 4692 to read as follows:

- 1 §7.1
- 2 Optional bank holidays within the meaning of Section 9 are:
- 3 (a) Any closing of a bank because of an extraordinary situation, as that term is defined in
- 4 the Bank Extraordinary Situation Closing Act (Chapter ~~20~~ 4.5 (commencing with
- 5 Section ~~3600~~ 1090) of Division ~~4~~ 1.1 of the Financial Code).
- 6 (b) Every Saturday.
- 7 (c) Every Sunday.
- 8 (d) January 1st.
- 9 (e) The third Monday in January, known as “Dr. Martin Luther King, Jr. Day.”
- 10 (f) February 12, known as “Lincoln Day.”
- 11 (g) The third Monday in February.
- 12 (h) The last Monday in May.
- 13 (i) July 4th.
- 14 (j) The first Monday in September.
- 15 (k) September 9th, known as “Admission Day.”
- 16 (l) The second Monday in October, known as “Columbus Day.”
- 17 (m) The first Tuesday after the first Monday in November in any even-numbered year.
- 18 ~~(m)(n)~~ November 11th, known as “Veteran’s Day.”
- 19 ~~(n)(o)~~ December 25th.
- 20 ~~(o)(p)~~ Good Friday from 12 noon until closing.
- 21 ~~(p)(q)~~ The Thursday in November appointed as “Thanksgiving Day.”
- 22 ~~(q)(r)~~ Any Monday following any Sunday on which January 1st, February 12th, July 4th,
- 23 September 9th, November 11th, or December 25th falls.
- 24 ~~(r)(s)~~ Any Friday preceding any Saturday on which July 4th, September 9th, or December
- 25 25th falls.
- 26
- 27 Education Code § 37220
- 28 (a) Except as otherwise provided, the public schools shall close on the following
- 29 holidays:
- 30 (1) January 1.

31 (2) The third Monday in January or the Monday or Friday in the week in which January
32 15 occurs, known as "Dr. Martin Luther King, Jr. Day." On the Friday preceding the day on
33 which schools are closed, schools shall include exercises commemorating and directing attention
34 to the history of the civil rights movement in the United States and particularly the role therein of
35 Dr. Martin Luther King, Jr.

36 (3) The Monday or Friday of the week in which February 12 occurs, known as "Lincoln
37 Day." On the day that school is in session prior to the day on which schools are closed for that
38 purpose, all public schools and educational institutions throughout the state shall hold exercises
39 in memory of Abraham Lincoln.

40 (4) The third Monday in February, known as "Washington Day." On the Friday
41 preceding, all public schools and educational institutions throughout the state shall hold exercises
42 in memory of George Washington.

43 (5) The last Monday in May, known as "Memorial Day."

44 (6) July 4.

45 (7) The first Monday in September, known as "Labor Day."

46 (8) The first Tuesday after the first Monday in November in any even-numbered year.

47 ~~(8)(9)~~ November 11, known as "Veterans Day."

48 ~~(9)(10)~~ That Thursday in November proclaimed by the President as "Thanksgiving Day."

49 ~~(10)(11)~~ December 25.

50 ~~(11)(12)~~ All days appointed by the Governor for a public fast, thanksgiving, or holiday,
51 and all special or limited holidays on which the Governor provides that the schools shall close.

52 ~~(12)(13)~~ All days appointed by the President as a public fast, thanksgiving, or holiday,
53 unless it is a special or limited holiday.

54 ~~(13)(14)~~ Any other day designated as a holiday by the governing board of the school
55 district.

56 (b) When any of the holidays on which the schools would be closed falls on Sunday, the
57 public schools shall close on the Monday following.

58 (c) When any of the holidays on which the schools would be closed falls on Saturday, the
59 public schools shall close on the preceding Friday, and that Friday shall be declared a state
60 holiday.

61 (d) If any holiday on which the public schools are required to close pursuant to
62 subdivision (a) occurs under federal law on a date different from the date specified in subdivision
63 (a), the governing board of any school district may close the public schools of the district on the
64 date recognized by federal law and maintain classes on the date specified in subdivision (a).

65 (e) Except for Veterans Day, as designated in paragraph ~~(8)~~ (9) of subdivision (a), the
66 governing board of a school district, by adoption of a resolution, may revise the date upon which
67 the schools of the district close in observance of any of the holidays identified in subdivision (a).

68 (f) The governing board of a school district may not request a waiver of
69 paragraph ~~(8)~~ (9) of subdivision (a) from the state board.

70 (g) This section does not prohibit a school district from authorizing its facilities or
71 grounds to be used in accordance with Section 38131 on those days on which the public schools
72 are closed.

73
74 § 45203

75 (a) All probationary or permanent employees that are a part of the classified service shall
76 be entitled to all of the following paid holidays provided they are in a paid status during any

77 portion of the working day immediately preceding or succeeding the holiday: January 1,
78 February 12 known as "Lincoln Day," the third Monday in February known as "Washington
79 Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September
80 known as "Labor Day," The first Tuesday after the first Monday in November in any even-
81 numbered year, November 11 known as "Veterans Day," that Thursday in November proclaimed
82 by the President as "Thanksgiving Day," December 25, every day appointed by the President, or
83 the Governor of this state, as provided for in subdivisions (b) and (c) of Section 37220 for a
84 public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 or 37222
85 for classified or certificated employees.

86
87 School recesses during the Christmas, Easter, and mid-February periods shall not be considered
88 holidays for classified employees who are normally required to work during that period.
89 However, this shall not be construed as affecting vacation rights specified in this section.
90

91 Regular employees of the district who are not normally assigned to duty during the school
92 holidays of December 25 and January 1 shall be paid for those two holidays provided that they
93 were in a paid status during any portion of the working day of their normal assignment
94 immediately preceding or succeeding the holiday period.
95

96 When a holiday listed in this section falls on a Sunday, the following Monday shall be deemed to
97 be the holiday in lieu of the day observed. When a holiday listed in this section falls on a
98 Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed.
99 When a classified employee is required to work on any of these holidays, he or she shall be paid
100 compensation, or given compensating time off, for such work, in addition to the regular pay
101 received for the holiday, at the rate of time and one-half the employee's regular rate of pay.
102

103 The provisions of Article 3 (commencing with Section 37220) of Chapter 2 of Part 22 shall not
104 be construed to in any way limit the provisions of this section, nor shall anything in this section
105 be construed to prohibit the governing board from adopting separate work schedules for the
106 certificated and the classified services, or from providing holiday pay for employees who have
107 not been in paid status on the days specified herein. Notwithstanding the adoption of separate
108 work schedules for the certificated and the classified services, on any schoolday during which
109 pupils would otherwise have been in attendance but are not and for which certificated personnel
110 receive regular pay, classified personnel shall also receive regular pay whether or not they are
111 required to report for duty that day.
112

113 In addition to the other paid holidays specified in this section, the classified service may be
114 entitled to a paid holiday on March 31 known as "Cesar Chavez Day," and a paid holiday on the
115 fourth Friday in September known as "Native American Day," provided they are in a paid status
116 during any portion of the working day immediately preceding or succeeding the holiday, if the
117 governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7
118 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to the
119 paid holiday.
120

121 This section shall apply to districts that have adopted the merit system in the same manner and
122 effect as if it were a part of Article 6 (commencing with Section 45240).

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§ 79020.

Except as otherwise provided, the community colleges shall continue in session or close on specified holidays as follows:

(a) The community colleges shall close on January 1st, the third Monday in January, commencing in the 1989-90 fiscal year, known as “Dr. Martin Luther King, Jr. Day,” February 12th known as “Lincoln Day,” the third Monday in February known as “Washington Day,” the last Monday in May known as “Memorial Day,” July 4th, the first Monday in September known as “Labor Day,” The first Tuesday after the first Monday in November in any even-numbered year, November 11th known as “Veterans Day,” that Thursday in November proclaimed by the President as “Thanksgiving Day,” and December 25th.

(b) Any contractual provision between any community college district and its employees in effect on the effective date of the act that adds this subdivision shall prevail over any conflict regarding Dr. Martin Luther King, Jr. Day until the termination date of the contract or upon termination by mutual agreement of the parties, whichever occurs first.

(c) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the community colleges shall close on the day. If the Governor does not provide whether the community colleges shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(d) The community colleges shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(e) The community colleges shall continue in session on all legal holidays other than those designated by or pursuant to this section, and shall hold proper exercises commemorating the day.

(f) When any of the holidays on which the schools would be closed fall on Sunday, the community colleges shall close on the Monday following, except that (1) if Lincoln Day falls on a Sunday, the community colleges may observe this holiday on the preceding or following Friday, the following Monday, or the following Tuesday, and maintain classes on the date specified in subdivision (a) where applicable, or (2) if Lincoln Day falls on a Monday, the community colleges may observe this holiday on the preceding or following Friday, that Monday, or the following Tuesday, and maintain classes on the date specified in subdivision (a) where applicable.

(g) When any of the holidays on which the schools would be closed, except Lincoln Day, fall on Saturday, the community colleges shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(h) If any holiday on which the community colleges are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any community college district may close the community colleges of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(i) When Veterans Day would fall on Tuesday, the governing board of a community college district may close the colleges on the preceding Monday, and maintain classes on the date specified in subdivision (a). When Veterans Day would fall on Wednesday, the governing board of a community college district may close the colleges on either the preceding Monday or the following Friday, and maintain classes on the date specified in subdivision (a). When

169 Veterans Day would fall on Thursday, the governing board of a community college district may
170 close the colleges on the following Friday, and maintain classes on the date specified in
171 subdivision (a).

172 (j) When Lincoln Day would fall on Tuesday, the governing board of a community
173 college district may close the colleges on the preceding Monday, the preceding Friday, or the
174 following Friday, and maintain classes on the date specified in subdivision (a) where appropriate.
175 When Lincoln Day would fall on Wednesday, the governing board of a community college
176 district may close the colleges on the preceding Monday, the preceding Friday, or the following
177 Friday, and maintain classes on the date specified in subdivision (a). When Lincoln Day would
178 fall on Thursday, the governing board of a community college district may close the colleges on
179 the preceding Friday or the following Friday, and maintain classes on the date specified in
180 subdivision (a). When Lincoln Day falls on Saturday, the governing board of a community
181 college district may close the colleges on the preceding Friday or the following Friday, and
182 maintain classes on the date specified in subdivision (a) where appropriate.

183 (k) In addition to the holidays specified in subdivision (a), a community college may
184 close on March 31 known as “Cesar Chavez Day” if the governing board, pursuant to a
185 memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section
186 3540) of Division 4 of Title 1 of the Government Code, agrees to close the community college
187 for that purpose.

188 (l) In addition to the holidays specified in subdivision (a), a community college may close
189 on the fourth Friday in September known as “Native American Day” if the governing board,
190 pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing
191 with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to close the
192 community college for that purpose.

193 (m) Nothing in this section is to be interpreted as authorizing a community college
194 district governing board to maintain community colleges in its district for a lesser number of
195 days during the college year than the minimum established by law.

196 SEC. 5.

197 Section 79030 of the Education Code is amended to read:

198

199 § 79030.

200 Whenever climatic conditions of a community college district are such as to render it necessary
201 that the colleges be closed as early in the year as possible or opened as late in the year as
202 possible, the governing board of the community college district may maintain classes on any
203 days other than the 25th day of December, the first day of January, the fourth day of July, the
204 first Tuesday after the first Monday in November in any even-numbered year, and any day
205 appointed by the President or the Governor for a public thanksgiving.

206

207 When classes are maintained on holidays pursuant to this section, proper exercises shall be held
208 commemorating the day.

209

210 § 88203.

211 All probationary or permanent employees who are part of the classified service shall be entitled
212 to the following paid holidays if they are in a paid status during any portion of the working day
213 immediately preceding or succeeding the holiday: January 1, February 12 known as “Lincoln
214 Day,” the third Monday in February known as “Washington Day,” the last Monday in May

215 known as “Memorial Day,” July 4, the first Monday in September known as “Labor Day,” The
216 first Tuesday after the first Monday in November in any even-numbered year, November 11
217 known as “Veterans Day,” that Thursday in November proclaimed by the President as
218 “Thanksgiving Day,” December 25, every day appointed by the President, or the Governor of
219 this state, as provided for in subdivisions (c) and (d) of Section 79020 for a public fast,
220 thanksgiving or holiday, or any day declared a holiday under Section 1318 for classified or
221 academic employees. College recesses during the Christmas and Easter periods shall not be
222 considered holidays for classified employees who are normally required to work during that
223 period; provided, however, that this shall not be construed as affecting vacation rights specified
224 in this section.

225
226 Regular employees of the district who are not normally assigned to duty during the college
227 holidays of December 25 and January 1 shall be paid for those two holidays if they were in a
228 paid status during any portion of the working day of their normal assignment immediately
229 preceding or succeeding the holiday period.

230
231 When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the
232 holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the
233 preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified
234 employee is required to work on any of said holidays, he or she shall be paid compensation, or
235 given compensating time off, for such work, in addition to the regular pay received for the
236 holiday, at the rate of time and one-half his or her regular rate of pay.

237
238 Article 3 (commencing with Section 79020) of Chapter 8 of Part 48 of this division shall not be
239 construed to in any way limit this section, nor shall anything in this section be construed to
240 prohibit the governing board from adopting separate work schedules for the academic and the
241 classified services, or from providing holiday pay for employees who have not been in paid
242 status on the days specified herein. Notwithstanding the adoption of separate work schedules for
243 the academic and the classified services, on any schoolday during which students would
244 otherwise have been in attendance, but are not and for which faculty receive regular pay,
245 classified personnel shall also receive regular pay whether or not they are required to report for
246 duty that day.

247
248 In addition to the other paid holidays specified in this section, the classified service may be
249 entitled to a paid holiday on March 31 known as “Cesar Chavez Day” and a paid holiday on the
250 fourth Friday in September known as “Native American Day,” if they are in a paid status during
251 any portion of the working day immediately preceding or succeeding the holiday, if the
252 governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7
253 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to the
254 paid holiday.

255
256 This section shall apply to districts that have adopted the merit system in the same manner and
257 effect as if it were a part of Article 3 (commencing with Section 88060).

258
259 § 1100

260 ~~No~~An election shall not be held on any day other than a ~~Tuesday, nor Tuesday~~ and shall ~~any~~
261 ~~election~~ not be held on the day before, the day of, or the day after, a state ~~holiday~~ holiday, except
262 for a statewide general election holiday as described in paragraph (13) of subdivision (a) of
263 Section 6700 of the Government Code.

264
265 Government Code § 6700

- 266 (a) The holidays in this state are:
- 267 (1) Every Sunday.
 - 268 (2) January 1st.
 - 269 (3) The third Monday in January, known as “Dr. Martin Luther King, Jr. Day.”
 - 270 (4) February 12th, known as “Lincoln Day.”
 - 271 (5) The third Monday in February.
 - 272 (6) March ~~31st~~, known as “Cesar Chavez Day.”
 - 273 (7) The last Monday in May.
 - 274 (8) July 4th.
 - 275 (9) The first Monday in September.
 - 276 (10) September 9th, known as “Admission Day.”
 - 277 (11) The fourth Friday in September, known as “Native American Day.”
 - 278 (12) The second Monday in October, known as “Columbus Day.”
 - 279 (13) The first Tuesday after the first Monday in November ~~11th, known as “Veterans~~
280 ~~Day.”~~ in any even-numbered year.

- 281 (14) November 11, known as “Veterans Day.”
- 282 ~~(14)(15) December 25th. 25.~~
- 283 ~~(15)(16) Good Friday from 12 noon until 3 p.m.~~
- 284 ~~(16)(17) (A) Every day appointed by the President or Governor for a public fast,~~
285 ~~thanksgiving, or holiday.~~
- 286 (B) Except for the Thursday in November appointed as Thanksgiving Day, this paragraph
287 and paragraphs (3) and (6) shall not apply to a city, county, or district unless made applicable by
288 charter, or by ordinance or resolution of the governing body thereof.

289 (b) If the provisions of this section are in conflict with the provisions of a memorandum
290 of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4
291 of Title 1, the memorandum of understanding shall be controlling without further legislative
292 action, except that if those provisions of a memorandum of understanding require the
293 expenditure of funds, the provisions shall not become effective unless approved by the
294 Legislature in the annual Budget Act.

295
296 § 19853.

297 (a) All state employees shall be entitled to the following holidays: January 1, the third
298 Monday in January, the third Monday in February, March 31, the last Monday in May, July 4,
299 the first Monday in September, the first Tuesday after the first Monday in November in any
300 even-numbered year, November 11, Thanksgiving Day, the day after Thanksgiving, December
301 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the
302 Governor of this state for a public fast, thanksgiving, or holiday.

303 (b) If a day listed in this subdivision falls on a Sunday, the following Monday shall be
304 deemed to be the holiday in lieu of the day observed. If November 11 falls upon a Saturday, the
305 preceding Friday shall be deemed to be the holiday in lieu of the day observed.

306 (c) Any state employee who may be required to work on any of the holidays included in
307 this section, and who does work on any of these holidays, shall be entitled to receive straight-
308 time pay and eight hours of holiday credit.

309 (d) For the purpose of computing the number of hours worked, time when an employee is
310 excused from work because of holidays, sick leave, vacation, annual leave, compensating time
311 off, or any other leave shall not be considered as time worked by the employee for the purpose of
312 computing cash compensation for overtime or compensating time off for overtime.

313 (e) Any state employee, as defined in subdivision (c) of Section 3513, may elect to
314 receive eight hours of holiday credit for the fourth Friday in September, known as “Native
315 American Day,” in lieu of receiving eight hours of personal holiday credit in accordance with
316 Section 19854.

317 (f) Persons employed on less than a full-time basis shall receive holidays in accordance
318 with the Department of Human Resources rules.

319 (g) If subdivision (a), (c), or (d) is in conflict with the provisions of a memorandum of
320 understanding executed or amended pursuant to Section 3517.5 on or after February 1, 2009, or
321 the date that the act adding this section takes effect, whichever is later, the memorandum of
322 understanding shall be controlling without further legislative action, except that if those
323 provisions of the memorandum of understanding require the expenditure of funds, the provisions
324 shall not become effective unless approved by the Legislature in the annual Budget Act.

325 ~~(h) This section shall become operative on February 1, 2009, or the date that the act~~
326 ~~adding this section takes effect, whichever is later.~~

327
328 § 19853.1.

329 (a) Notwithstanding Section 19853, this section shall apply to state employees in State
330 Bargaining Unit 5.

331 (b) Except as provided in subdivision (c), all employees shall be entitled to the following
332 holidays: January 1, the third Monday in January, the third Monday in February, March 31, the
333 last Monday in May, July 4, the first Monday in September, the first Tuesday after the first
334 Monday in November in any even-numbered year, November 11, the day after Thanksgiving,
335 December 25, and every day appointed by the Governor of this state for a public fast,
336 thanksgiving, or holiday.

337
338 If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be
339 the holiday in lieu of the day observed. If November 11 falls upon a Saturday, the preceding
340 Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be
341 required to work on any of the holidays included in this section and who does work on any of
342 these holidays shall be entitled to be paid compensation or given compensating time off for that
343 work in accordance with his or her classification’s assigned workweek group.

344
345 (c) If the provisions of subdivision (b) are in conflict with the provisions of a
346 memorandum of understanding reached pursuant to Section 3517.5, the memorandum of
347 understanding shall be controlling without further legislative action, except that if the provisions
348 of a memorandum of understanding require the expenditure of funds, the provisions shall not
349 become effective unless approved by the Legislature in the annual Budget Act.

350 (d) Any employee who either is excluded from the definition of state employee in
351 subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of

352 government who is not a member of the civil service, is entitled to the following holidays, with
353 pay, in addition to any official state holiday appointed by the Governor:

354 (1) January 1, the third Monday in January, the third Monday in February, March 31, the
355 last Monday in May, July 4, the first Monday in September, the first Tuesday after the first
356 Monday in November in any even-numbered year, November 11, Thanksgiving Day, the day
357 after Thanksgiving, and December 25.

358 (2) When November 11 falls on a Saturday, employees shall be entitled to the preceding
359 Friday as a holiday with pay.

360 (3) When a holiday, other than a personal holiday, falls on a Saturday, an employee
361 shall, regardless of whether he or she works on the holiday, accrue only an additional eight hours
362 of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on
363 the actual date of the holiday and shall be used within the same fiscal year.

364 (4) When a holiday other than a personal holiday falls on Sunday, employees shall be
365 entitled to the following Monday as a holiday with pay.

366 (5) Employees who are required to work on a holiday shall be entitled to pay or
367 compensating time off for this work in accordance with their classification's assigned workweek
368 group.

369 (6) Persons employed on less than a full-time basis shall receive holidays in accordance
370 with the Department of Human Resources rules.

371 (e) Any employee, as defined in subdivision (c) of Section 3513, may elect to use eight
372 hours of vacation, annual leave, or compensating time off consistent with departmental
373 operational needs and collective bargaining agreements for the fourth Friday in September,
374 known as "Native American Day."

375 (f) This section shall become effective with regard to the March 31 holiday only when the
376 Department of Human Resources notifies the Legislature that the language contained in this
377 section has been agreed to by all exclusive representatives, and the Department of Human
378 Resources authorizes this holiday to be applied to employees designated as excluded from the
379 Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), and the
380 necessary statutes are amended to reflect this change.

381
382 Welfare and Institutions Code § 4692

383 (a) Effective August 1, 2009, subject to subdivisions (c) and (e), regional centers shall not
384 compensate a work activity program, activity center, adult development center, behavior
385 management program, social recreation program, adaptive skills trainer, infant development
386 program, program support group (day service), socialization training program, client/parent
387 support behavior intervention training program, community integration training program,
388 community activities support service, or creative arts program, as defined in Title 17 of the
389 California Code of Regulations, for providing any service to a consumer on any of the following
390 holidays:

391 (1) January 1.

392 (2) The third Monday in January.

393 (3) The third Monday in February.

394 (4) March 31.

395 (5) The last Monday in May.

396 (6) July 4.

397 (7) The first Monday in September.

398 (8) The first Tuesday after the first Monday in November~~11~~. in any even-numbered year.
399 (9) November 11.
400 ~~(9)~~(10) Thanksgiving Day.
401 ~~(10)~~(11) December 25.
402 ~~(11)~~(12) The four business days between December 25 and January 1.
403 (b) Effective August 1, 2009, subject to subdivisions (c) and (e), regional centers shall
404 not compensate a transportation vendor/family member, transportation company,
405 transportation/additional component vendor, transportation broker, transportation
406 assistant/vendor, transportation vendor/auto driver, or transportation vendor/public or rental car
407 agency or taxi, in accordance with Title 17 of the California Code of Regulations, for
408 transporting any consumer to receive services from any of the vendors specified in subdivision
409 (a) for any of the holidays set forth in paragraphs (1) to ~~(11)~~, (12), inclusive, of subdivision (a).
410 (c) If a holiday listed in this section falls on a Saturday or a Sunday, the following
411 Monday shall be deemed to be the holiday in lieu of the day observed.
412 (d) Contracts between the vendors described in this section and regional centers shall
413 reflect the holiday closures set forth in this section and shall be renegotiated accordingly, as
414 necessary.
415 (e) The department may adjust the holidays set forth in subdivision (a) through a program
416 directive. This directive shall be provided to the regional centers and posted on the department's
417 Internet Web site at least 60 days prior to the effective date of the change in holiday.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bay Area Lawyers for Individual Freedom (BALIF)

STATEMENT OF REASONS

The Problem: Existing law requires that an election for congressional and state elective offices be held on the first Tuesday after the first Monday in November of each even-numbered year. Existing law requires a presidential general election to be held on the first Tuesday after the first Monday in November in any year that is evenly divisible by the number 4.

From the earliest New England settlements, colonial elections were public feast days, when people put on their best clothes and paraded into town with neighbors and friends. Tuesday was established as election day because it did not interfere with the Biblical Sabbath or with market day, which was on Wednesday in many towns. In modern times, the United States is no longer primarily an agrarian society, and Tuesday is now normally a work day throughout the country with most voters working on that day. Having Election Day on a Tuesday decreases voter turnout.

American voter participation is abysmal compared with other established democracies, trailing behind countries such as France and Mexico that observe federal holidays for general elections — and also compared with Americans of the 19th century.

The Solution: The most vigorous turnout in a recent U.S. election was 63 percent, in 2008; it was down to about 56 percent in 2016. This low turnout is attributable in part to the fact that

Americans can't get time off from work to vote. Delaware, Hawaii, Kentucky, Montana, New Jersey, New York, Ohio, West Virginia, and the territory of Puerto Rico have already declared Election Day a civic holiday. California Elections Code Section 14000 and New York State Election Law provide that employees without sufficient time to vote must be allowed two hours off with pay, at the beginning or end of a shift.

This resolution would add the day on which a statewide general election is held to the list of California paid holidays. It would also require community colleges and public schools to close on any day on which a statewide general election is held and require that state employees, with specified exceptions, be given time off with pay for days on which a statewide general election is held.

The far more robust voter turnouts of an earlier period, in which elections occasioned boisterous public festivities, reveal a civic culture that we've lost. Declaring Election Day a federal holiday and rekindling the celebratory spirit that marked the day in previous centuries would be an important step toward promoting democratic participation. Furthermore, we must also depart from our history to create an inclusive Election Day in which all Americans can take part.

There has been a recent and ongoing push make Election Day a Federal holiday for nearly 2 decades. It is time for California to change its laws to be in accord with the more progressive laws of other states that already make Election Day a civic holiday.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

AB 177 (2019) introduced by Assembly Member Low.

AUTHOR AND/OR PERMANENT CONTACT:

Jennifer Orthwein, Medina Orthwein LLP, 1322 Webster St. Ste. 200, Oakland, CA 94612, Phone: (510) 823-2040. Fax: (510) 217-3580, jorthwein@medinaorthwein.com

RESPONSIBLE FLOOR DELEGATE: Jennifer Orthwein

RESOLUTION 05-07-2019

DIGEST

Public Holidays: Change of “Columbus Day” to “Indigenous People’s Day

Amends Government Code section 6700 to change “Columbus Day” to “Indigenous Peoples’ Day.”

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Government Code section 6700 to read as follows:

- 1 § 6700
- 2 (a) The holidays in this state are:
- 3 (1) Every Sunday.
- 4 (2) January 1st.
- 5 (3) The third Monday in January, known as “Dr. Martin Luther King, Jr. Day.”
- 6 (4) February 12th, known as “Lincoln Day.”
- 7 (5) The third Monday in February.
- 8 (6) March 31st, known as “Cesar Chavez Day.”
- 9 (7) The last Monday in May.
- 10 (8) July 4th.
- 11 (9) The first Monday in September.
- 12 (10) September 9th, known as “Admission Day.”
- 13 (11) The fourth Friday in September, known as “Native American Day.”
- 14 (12) The second Monday in October, known as “Indigenous Peoples’ Day.” “~~Columbus~~
- 15 ~~Day.~~” “
- 16 (13) November 11th, known as “Veterans Day.”
- 17 (14) December 25th.
- 18 (15) Good Friday from 12 noon until 3 p.m.
- 19 (16) (A) Every day appointed by the President or Governor for a public fast,
- 20 thanksgiving, or holiday.
- 21 (B) Except for the Thursday in November appointed as Thanksgiving Day, this paragraph
- 22 and paragraphs (3) and (6) shall not apply to a city, county, or district unless made applicable by
- 23 charter, or by ordinance or resolution of the governing body thereof.
- 24 (b) If the provisions of this section are in conflict with the provisions of a memorandum
- 25 of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4
- 26 of Title 1, the memorandum of understanding shall be controlling without further legislative
- 27 action, except that if those provisions of a memorandum of understanding require the
- 28 expenditure of funds, the provisions shall not become effective unless approved by the
- 29 Legislature in the annual Budget Act.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bay Area Lawyers for Individual Freedom

STATEMENT OF REASONS

The Problem (including Existing Law): The celebration of Christopher Columbus through a public holiday is an anachronistic vestige of colonialism. Columbus was not a hero but rather an individual who, with his men, raped, murdered and enslaved countless Indigenous people. Upon his return to Spain, he brought more than two dozen Native Americans with him, and the handful who survived were sold into slavery. He traded young Native American girls as sex slaves. In 1500, he writes in his journal, that currency was “as easily obtained for a woman as for a farm” and that girls “from nine to ten [were then] in demand” among slave traders. Columbus Day celebrates an event that took place in 1492 and was established by Franklin Roosevelt, at the insistence of the Knights of Columbus in 1937. It was not until the 1970s, that the day began to be observed on the second Monday of October. Indigenous Peoples’ Day, meanwhile, is about celebrating millennia of tradition and culture otherwise overlooked. While the past cannot be changed, we can realize and remember the pain that millions suffered throughout the nation’s history.

The Solution: Indigenous Peoples’ Day recognizes and celebrates the heritage of all indigenous peoples. While there is a Native American Day, it is not observed and fails to recognize that not all indigenous peoples are Native Americans. Indigenous Peoples’ Day, recognizes the historic and ongoing painful impacts that Columbus’s and other European colonists’ arrival in the Americas had on Indigenous peoples. Instead of celebrating genocide, rape, and slavery, Indigenous People’s Day educates Californians, the country and the world about the history of the United States before the arrival of colonizers, and recognizes the contributions, history, and sacrifices made by the original inhabitants of this continent. Columbus’s achievements are not outweighed by his moral deficits, genocide, rape, and wholesale destruction of cultures. Through Indigenous Peoples’ Day, we can refocus the conversation away from genocide that was started by Columbus and his men, and instead focus to the ongoing resilience and resistance of Indigenous people throughout the Americas. The positive contributions of Italian and Spanish Americans should be celebrated and recognized, but not under the banner of a person with such a deep history of violence and destruction. With the act of naming Indigenous People’s Day, we start to repair the damage done by generations of violence and oppression.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

No prior legislation in California is known. A similar resolution was brought before the conference as 12-03-2018 and was narrowly defeated

AUTHOR AND/OR PERMANENT CONTACT:

Michael Wolchansky, Law Office of Michael Wolchansky, 2370 Market Street, Suite 180, San Francisco, CA, 94114; 415.404.7971; Michael@WolchanskyLaw.com

RESPONSIBLE FLOOR DELEGATE: Michael Wolchansky

RESOLUTION 05-08-2019

DIGEST

Public Records Act: Transparency in Use of Public Resources

Amends Government Code section 6253 to increase transparency related to public records requests and introduces requirements to promote narrowly-tailored records requests.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be amended Government Code section 6253 to read as follows:

§ 6253.

1 (a) Public records are open to inspection at all times during the office hours of the state or
2 local agency and every person has a right to inspect any public record, except as hereafter
3 provided. Any reasonably segregable portion of a record shall be available for inspection by any
4 person requesting the record after deletion of the portions that are exempted by law.

5 (b) Except with respect to public records exempt from disclosure by express provisions of
6 law, each state or local agency, upon a request for a copy of records that reasonably describes an
7 identifiable record or records, shall make the records promptly available to any person upon
8 payment of fees covering direct costs of duplication, or a statutory fee if applicable. To the extent
9 reasonably practicable, requests made pursuant to this chapter should be narrowly tailored in
10 scope so as to prevent unnecessary burden on the agency. Upon request, an exact copy shall be
11 provided unless impracticable to do so.

12 (c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt
13 of the request, determine whether the request, in whole or in part, seeks copies of disclosable
14 public records in the possession of the agency and shall promptly notify the person making the
15 request of the determination and the reasons therefor. In unusual circumstances, the time limit
16 prescribed in this section may be extended by written notice by the head of the agency or his or
17 her designee to the person making the request, setting forth the reasons for the extension and the
18 date on which a determination is expected to be dispatched. No notice shall specify a date that
19 would result in an extension for more than 14 days. When the agency dispatches the
20 determination, and if the agency determines that the request seeks disclosable public records, the
21 agency shall state the estimated date and time when the records will be made available. As used
22 in this section, "unusual circumstances" means the following, but only to the extent reasonably
23 necessary to the proper processing of the particular request:

24 (1) The need to search for and collect the requested records from field facilities or other
25 establishments that are separate from the office processing the request.

26 (2) The need to search for, collect, and appropriately examine a voluminous amount of
27 separate and distinct records that are demanded in a single request. If the agency determines that
28 narrowing the scope of the request could expedite the agency's response to the request,
29 including, by way of example and not by limitation, by narrowing the scope of the request to a
30 certain date range or certain custodians, the agency shall suggest such potential modifications to
31 the person making the request, but the person making the request shall not be obligated to revise
32 their request to conform to any such suggestion by the agency.

33 (3) The need for consultation, which shall be conducted with all practicable speed, with
34 another agency having substantial interest in the determination of the request or among two or
35 more components of the agency having substantial subject matter interest therein.

36 (4) The need to compile data, to write programming language or a computer program, or
37 to construct a computer report to extract data.

38 (d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the
39 inspection or copying of public records. The notification of denial of any request for records
40 required by Section 6255 shall set forth the names and titles or positions of each person
41 responsible for the denial.

42 (e) Except as otherwise prohibited by law, a state or local agency may adopt requirements
43 for itself that allow for faster, more efficient, or greater access to records than prescribed by the
44 minimum standards set forth in this chapter.

45 (f) In addition to maintaining public records for public inspection during the office hours
46 of the public agency, a public agency may comply with subdivision (a) by posting any public
47 record on its Internet Web site and, in response to a request for a public record posted on the
48 Internet Web site, directing a member of the public to the location on the Internet Web site where
49 the public record is posted. However, if after the public agency directs a member of the public to
50 the Internet Web site, the member of the public requesting the public record requests a copy of
51 the public record due to an inability to access or reproduce the public record from the Internet
52 Web site, the public agency shall promptly provide a copy of the public record pursuant to
53 subdivision (b).

54 (g) Each agency shall create a log of each request for a copy of records received. The log
55 shall disclose (i) the date of the request; (ii) the text of the request; and (iii) if known, the identity
56 or source of the request. Each agency that determines that a request for a copy of records seeks
57 disclosable public records shall also supplement the log with (i) the total volume of the request,
58 stated either as the total number of pages or total file size of the documents produced in response
59 to the request; (ii) the date of the agency's final response to the request; and (iii) the total number
60 of hours spent by the agency's employees, attorneys, and agents in responding to the request,
61 including in searching for, collecting, compiling, and appropriately examining records demanded
62 in the request, rounded to the nearest one-quarter hour. If the agency incurs expenses in
63 responding to a request other than direct costs of duplication, the agency shall also supplement
64 the log with the total expenses incurred per request, including, without limitation, the total
65 amount expended on outside counsel retained by the agency to review and respond to the
66 request.

67 (h) The log required by subdivision (g) shall be made publicly available upon request in
68 the office of the person or officer designated by the agency's legislative body and shall be posted
69 in a prominent location on the agency's Internet Web site, if the agency has an Internet Web site.
70 The agency shall complete and post the log required by this section by January 1, 2021, and
71 thereafter shall update the log monthly.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of San Francisco

STATEMENT OF REASONS

The Problem: Public access to government records is paramount. Unfortunately, numerous individuals and law firms are abusing the Public Records Act—at mounting expense to public agencies—by failing to formulate narrowly-tailored requests, submitting duplicative requests, and using the Act as a workaround or alternative to the civil discovery process. (See, e.g., <https://nyti.ms/2D6MgP1> [UC Davis spent 80-100 hours complying with a public records request submitted by tax preparation companies in retaliation for a professor’s criticism of a deal those companies have to provide tax filing services through IRS]; <https://www.paloaltoonline.com/news/2018/06/19/district-seeks-to-limit-unduly-burdensome-public-records-requests> [noting 453% increase in number of Public Records Act requests filed in 2018 vs. 2017, with a single request resulting in more than 300,000 responsive emails].) Anyone may request all documents related to X topic for the past 10 years, clearly burdening public agencies to search for and appropriately review records.

Current law does not require public agencies to track or report the amount of time spent by public officials or employees responding to requests or the amount of money expended by each agency in responding to these requests, though this information may otherwise be available to the public.

The Solution: This bill proposes to increase government transparency and public awareness by requiring public agencies to track and publish the name of each requester, the text of each request, and the amount of hours and money expended by the public agency in responding to each request, with the goals of exposing potential abuse as well as shedding light on potential solutions to increase efficiency in responding to requests (e.g., by making additional records available on agency websites, transitioning to the use of electronic records, etc.). Tracking and publishing this information will likely lead to additional insights about potential needed exceptions to the Public Records Act and/or areas where the Act could be improved, and could assist public agencies in managing requesters’ expectations related to anticipated turnaround times to produce responsive records.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT:

Christopher Long, Hopkins & Carley, 70 S. First Street, San Jose, CA 95113; (408) 286-9800; clong@hopkinscarley.com.

RESPONSIBLE FLOOR DELEGATE: Christopher Long