



ENGROSSMENT*

Notable 2007 Legislation

LEGISLATIVE INTENT SERVICE, INC. has published its "Compendium of 2007 Notable California Legislation," and you will find it conveniently posted at our website at: <http://www.legintent.com/legislation/legislation2007.pdf>

The topics addressed by the Legislature and approved by the Governor ranged from Agriculture to Education to Taxation to Water, with other subjects that might be of interest to you in between. In case you are looking for a particular bill, you can refer to the handy "Index of Bills" at the back of the Compendium.

Recently signed bills included Senate Bill 777 regarding discrimination and student civil rights; Assembly Bill 1735 on changes to state sanitation standards regarding milk and dairy products; Assembly Bill 220 enacting the Firefighters Procedural Bill of Rights; and Senate Bill 970 on rental vehicles' fuel gauges used to calculate optional charges for fueling, just to name a few.

Updated Points and Authorities-Free

We have drafted and posted our updated 2007 Points and Authorities for anyone to review, which include 2007 cases. The documents are at our website at www.legintent.com and can be viewed on your screen, printed at your printer, or copied over to your database if you like.

Our California Research Fees *Updated*

LEGISLATIVE INTENT SERVICE, INC. provides legislative histories for all 50 states and federal statutes and regulations. Thanks to the high demand by our clients, our pdf online delivery is the number one choice of delivery. Our clients have also requested more choices in our rush time frames and fees to accommodate their own busy schedules. We value our clients' suggestions and in response, we have

reorganized and developed a new fees structure that includes the pdf fees and adds new days to our rush schedule.

Now when you call in for **custom research**, you will be quoted new fees that are flat – no separate net posting charges. **You will see that we decreased some of our fees while we increased our services!** We hope you like the convenience of the flat fees and the additional rush choices. Call and ask to speak to one of our attorneys [800.666.1917] for details.

LegIntentStore

We have an alternative fast turnaround research online database at our website to which we add new bills almost every day. Go to www.legintent.com to search for your bill. If it is posted, you will be able to purchase it for \$300.00, any time of the day and any day of the week, and have the materials we previously collected available to you to download within a few minutes!

Unlike our *custom LegIntentService*, our online **LegIntentStore** is intended to be a convenient and competitive option for obtaining legislative history. The **LegIntentStore** materials will not include our analysis, our declaration, any background or failed related bills and their histories, nor further materials recently made available since our prior research effort. You can still get these by paying a separate fee for a declaration, or an analysis, or the materials related to a confirmation of research completeness for any bill you purchased at **LegIntentStore**. Or call us directly to order your **LegIntentService** *custom* order.

Authentication & Judicial Notice

Judicial notice is a substitute for proof; judicially noticed materials are not evidence per se. When documents are judicially noticed ". . . the judge does not proceed in accordance with the rule of . . . authentication of writings, nor is he restricted by the exclusionary rules (opinion rule, hearsay rule, best evidence rule, etc.) . . ." (Witkin California Evidence

(3d Edition) Judicial Notice, section 82, pages 75-76) However, “Some judges still insist on authentication of any material submitted in support of a judicial notice request. See *Quelimane Co. v. Stewart Title Guaranty Co.*, 19 Cal.4th 26, 46, fn.9 . . . (“None of the materials submitted by plaintiffs is authenticated, however. (Evid. Code §§1401, 1530)”), . . . For that reason, to be on the safe side, it is a good practice to submit the material with a supporting affidavit from an expert.” (Imwinkelreid, Wydick and Hogan California Evidentiary Foundations (3d Edition, 2000) pages 590-591) Code of Civil Procedure section 2015.5 authorizes declarations under penalty of perjury in lieu of affidavits. The declaration of the attorneys of Legislative Intent Service appears to meet these requirements. (See *People v. Connor* (2004, Sixth District) 115 Cal.App.4th 669, 681; *Whaley v. Sony Computer America, Inc.* (2004, Fourth District, Division 1) 121 Cal.App.4th 479, 487)

Recent Cases on Submitting Legislative History

In June 2006, the *California Supreme Court* examined a complete legislative history:

Indeed, a complete review of the Knox-Keene Acts voluminous legislative history does not support defendant’s broad interpretation of section 1395(b) and generally supports the People’s more limited reading of that section. *People v. Cole* (2006) 38 Cal.4th 964, 989

The *Third District* appeared to be considering a complete legislative history when it stated:

A 104-page exhibit containing the legislative history of Assembly Bill no. 743 was prepared by the Legislative Intent Service (hereafter Legis. Hist.) and was submitted and considered by the trial court. *Wirth v. State of California* (2006, 3rd District) 142 Cal.App.4th 131, 141, fn. 6

In the *Fifth District*, it looked like a complete legislative history was reviewed:

We grant Grower’s request for judicial notice of the legislative history of section 55638 prepared by Legislative

Intent Service and other materials filed on June 6, 2006, and grant Secured Lender’s June 7, 2007 request for judicial notice of legislative materials labeled as Exhibits A and B. *Frazier Nuts v. American Ag Credit* (2006, 5th District) 141 Cal.App.4th 1263, 1272

Appellate Courts Take Judicial Notice

. . . Because the statute is ambiguous, we review portions of section 3044(f)’s legislative history that shed light on the Legislature’s intent in enacting it. Fn 7 – The parties were notified pursuant to Evidence Code section 459, Subdivision (c), that we were considering taking judicial notice of identified portions of the legislative history and they were given a reasonable opportunity to meet this information pursuant to Evidence Code section 455, subdivision (a), and 459, subdivision d). Neither party responded to our invitation. *Sabbah v. Sabbah* (2007, 4th District, Division 3) 151 Cal.App.4th 818, 824

. . . . Senate Floor, Analysis of Assembly Bill No. 3260 (1993-1994 Reg. Sess.) as amended August 24, 1994 . . . On the court’s own motion, we take judicial notice of this legislative history of section 1363.1. *Medeiros v. Superior Court (Los Angeles)* (2007, 2nd District, Division 7) 146 Cal. App.4th 1008, 1017

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