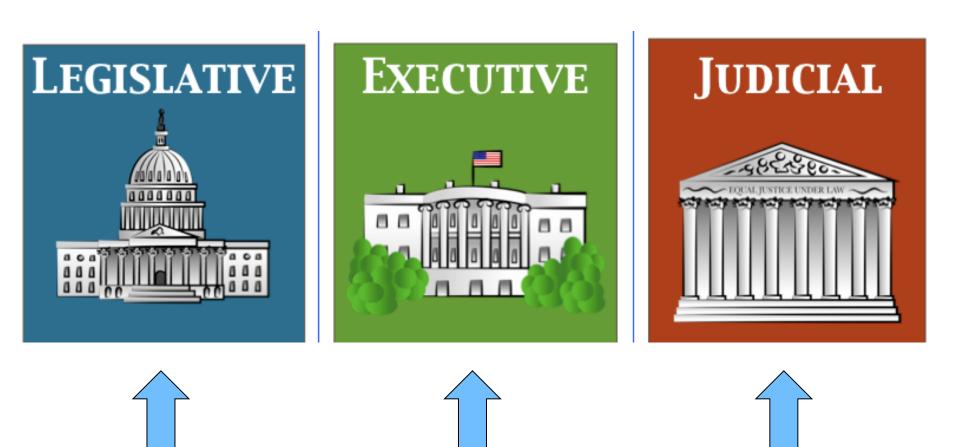
Research Assistant Training: Statutory and Administrative Law Research

Julianne Odin Student Services Librarian jodin@sandiego.edu (619) 260-4600 x2875





The majority of "law" is here

1L curriculum focuses here



Legislative Research



Quick review

- Session laws: statutes enacted during a legislative session; compiled at end of each session
- Statutory codes: compilation and arrangement of those statutes by subject; constantly updated as new statutes add to or change prior law
- Federal and state
- Text, history, annotations, citators



Today's legislative research topics

- Local/municipal codes
- 50-state surveys
- Tracking pending legislation
- Historical statutes
- Legislative history



Local/Municipal Codes



Local/municipal codes

- Created by local governing bodies, e.g. County Board of Supervisors, City Council
- Various names: codes, ordinances, bylaws, measures
- Have the force and effect of law; can't conflict with state law



Sources of municipal codes

- No comprehensive source
- Lexis Advance includes some municipal codes (see e.g. California municipal codes <u>here</u>, but nothing for San Diego-area governments)
- Westlaw Edge includes only the New York City and Washington, D.C. codes
- Municipal code publishers: <u>American Legal Publishing</u>, <u>Code</u>
 <u>Publishing Co.</u>, <u>General Code</u>, <u>Municode</u>, etc.
- Best approach: search the website of the municipality in question to find a link to its code



City of San Diego Municipal Code

Available on City of San Diego's <u>website</u>

SAN DIEGO		ඏ 61°	SAN DIEGO WEATHER			
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Chapter 04, Health and Sanitatio					Resolutions an	d
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Chapter 10, Planning and Zonin						
Chapter 11, Land Development						
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San Diego County Ordinances

Available via American Legal Publishing <u>website</u>

San Diego County Overview	San Diego County, California
 San Diego County Code of Administrative Ordinances San Diego County Code of Regulatory Ordinances San Diego County Comprehensive Ordinances San Diego County Board of Supervisors Policy Manual 	<text><text><text><text><text><text><section-header><section-header><section-header></section-header></section-header></section-header></text></text></text></text></text></text>



50-State Surveys



50-state surveys

Manually collecting each state's law on a topic is time-consuming and difficult (variations in terminology and code structure).

Look for an existing compilation—even if incomplete or out of date, can save considerable time. May be found in various places:

- HeinOnline
- Westlaw and Lexis
- Secondary sources: law review articles, A.L.R. annotations, practice guides, etc.
- <u>National Conference of State Legislatures</u>
- Advocacy organizations often collect state statutes on topics of interest to them



50-state surveys: HeinOnline

National Survey of State Laws

Searchable and browsable database of 50-state surveys on more than 50 topics. Includes citations to and brief summaries of state laws.

Subject Compilations of State Laws

Searchable and browsable index of articles, books, currentawareness materials, websites, and more which include comparisons of state laws on more than 1,200 subjects. Includes direct links to materials which are also available on HeinOnline; may have to locate other materials elsewhere.



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Buffalo Environmental Law Journal
Buffalo Public Interest Law Journal
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Code of Federal Regulations
Congress and the Courts
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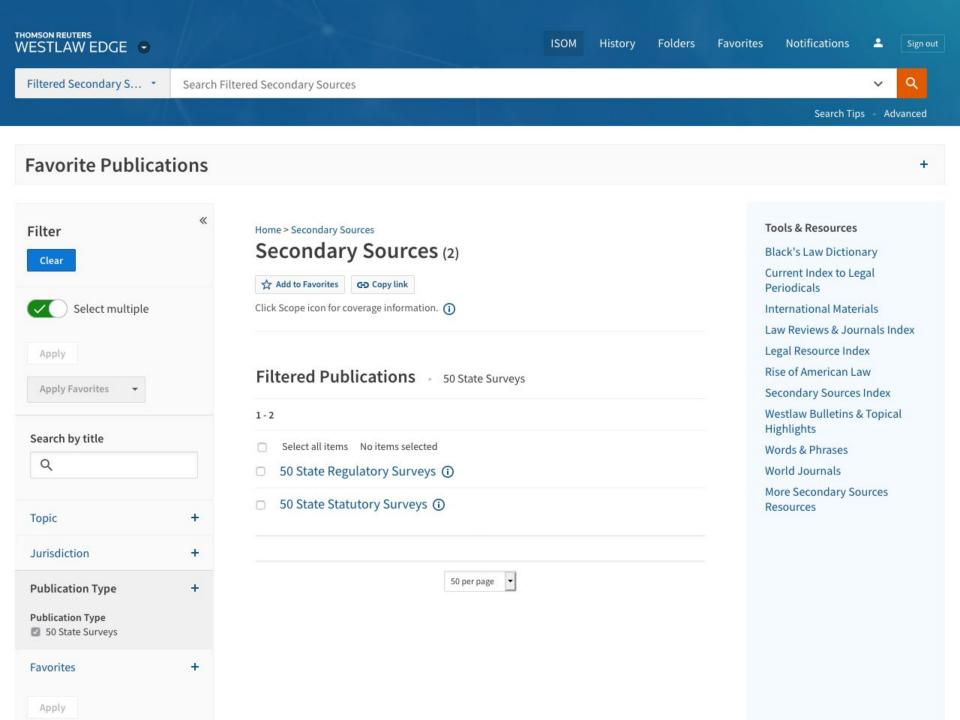
50-state surveys: Westlaw

From the main Westlaw page: Secondary Sources \rightarrow 50 State Surveys (or via this direct link)

Separate pages for surveys of <u>regulations</u> and <u>statutes</u>

• Organized topically (e.g. *Criminal Laws*, *Environmental Laws*, *Health Care*, etc.); also fulltext searchable





50-state surveys: Lexis

From the main Lexis+ page: Content: Secondary Materials \rightarrow Content Type: 50 State Surveys \rightarrow LexisNexis® 50-State Surveys, Statutes & Regulations (or via this <u>direct link</u>)

 Single page includes surveys of regulations and statutes

• Organized topically (e.g. *Criminal Law & Procedure*, *Environmental Law*, *Healthcare Law*, etc.); also full-text searchable



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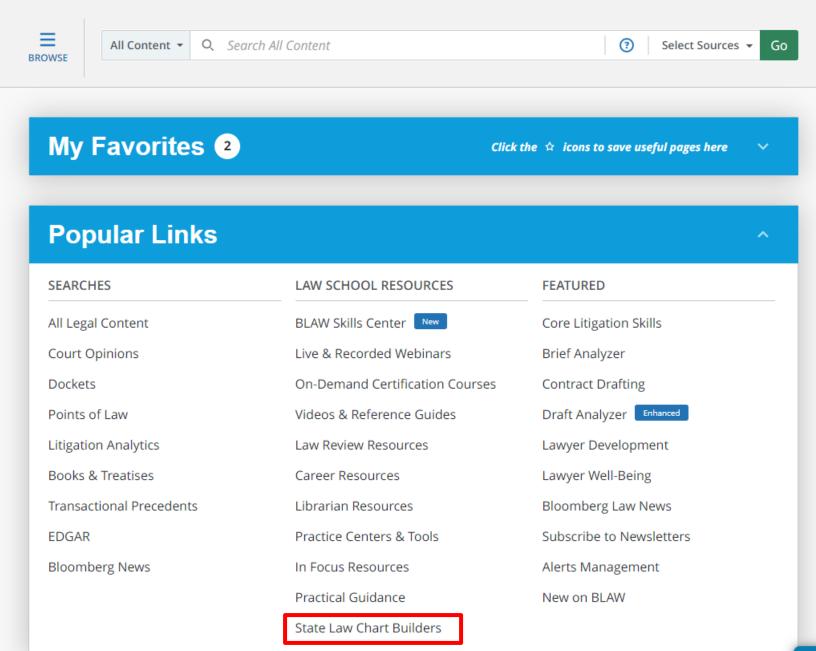
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+ Civil Procedure		
+ Civil Rights Law		
+ Communications Law		
+ Computer & Internet Law		
+ Contracts Law		
+ Criminal Law & Procedure		

50-state surveys: chart builders

- Westlaw, Lexis, Bloomberg Law and some specialty databases have tools that will collect provisions for you across states
- Not available for all topics
- Often allow exporting to an Excel spreadsheet



Bloomberg	Law
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Bloomberg Law

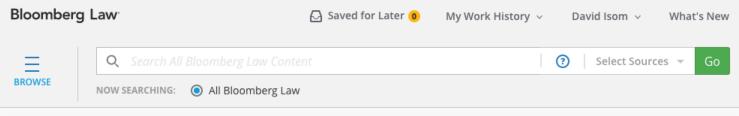


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Banking & Consumer Finance	Health Care
Bank Capital Requirements	Access, Retention & Disposal of Records
Bank Chartering	Accountable Care Organizations
Bank Charter Conversions	Anti-Kickback Laws
Bank Reserve Requirements	Any Willing Provider/Patient Choice
Branches of Foreign Banks	Benefit Mandates for Providers/Specialists
Commercial Lender Licensing	Benefit Mandates for Services/Supplies
Debt Collection Change of Control	Benefit Mandates for Specific Treatments
Debt Collection Compliance	Certificates of Need
Debt Collection Licensing	Continuation Coverage
Digital Currency Regulation	Corporate Practice of Medicine
Seneral Lending: Change of Control	Coverage of Abortion Services
Seneral Lending: Compliance Issues	Data Breach Notification
General Lending: Fees	Disclosure of Medical Information
General Lending: Licensing Requirements	Disclosure of Physician Financial Incentives
ligh-Interest Mortgages	False & Fraudulent Claims



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Health Privacy: Medical Record Access, Retention and Disposal

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Alaska		Maintenance and Storage Requirements
Arizona		Minimum Retention Period
Arkansas		Cessation of Operation, Destruction and Disposal
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Colorado		
Connecticut		
Delaware		
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Health Privacy: Medical Record Access, Retention and Disposal Chart Generated on Apr 21, 2022 17:10

Modify Chart Export All To Excel

+ Workspace

Торіс	Arizona	California	Nevada
Applicable Law	Ariz. Rev. Stat. § 12-2291 to Ariz. Rev. Stat. § 12-2297 (Medical records) Ariz. Rev. Stat. § 32-3211 (Health professionals) Ariz. Admin. Code R4-26-106, Ariz. Rev. Stat. § 32- 2061(cc) (Psychologists)	Cal. Civ. Code § 56 et seq. (Confidentiality of Medical Information Act) Cal. Code Regs. tit. 22, § 70751 (Health facilities) Cal. Health and Safety Code § 123100 to Cal. Health & Safety Code § 123149.5 (Patient Access to Health Records)	 Nev. Rev. Stat. § 629.061, Nev. Rev. Stat. § 629.051 (health-care providers) Nev. Rev. Stat. § 629.061(6) (ambulance owners) Nev. Admin. Code § 449.74443, Nev. Admin. Code § 449.74441 (skilled nursing facilities) Nev. Admin. Code § 449.794 (home health agencies) Nev. Admin. Code § 433.27 (NEW) (mental health providers of community-based living arrangement services)
Patient Access	Health professionals must have written protocols for patient medical records specifying how to timely respond to requests for record access and copies. Ariz. Rev. Stat. § 32-3211(A)(3) Healthcare providers must provide access to or copies of medical or payment records to patients or their health care decision makers upon written request; however, providers may deny requests in certain situations, such as when they believe access is reasonably likely to endanger the life or physical safety of the patient or another person. Ariz. Rev. Stat. § 12-2293 Psychologists may not condition the release of client records on payment for services and must provide access to or a copy of a client's record to the client or his/her healthcare decision maker with the client's written consent unless the release violates copyright laws or rules of professional conduct. Psychologists may deny requests to provide access to or a copy of a client's record if they determine that, among others things: access is reasonably likely to endanger the client's life or physical safety or cause substantial harm to the client or	Businesses that maintain medical information must provide patients with copies of their medical profiles and other information at no charge. Cal. Civ Code § 56.07 Patients' rights to access electronic medical records are consistent with their rights to other medical information. Cal. Civ. Code § 56.101(b)(2) Patients and their representatives have the right: to inspect their records upon request and payment of reasonable costs within five working days; and to receive paper or electronic copies of the record in the form and format requested or agreed to by the provider and patient or representative, within 15 days of a request. Minor patients may inspect only records relating to health care to which they can lawfully consent. Parties aggrieved by access violations may bring an action against the provider. Providers may prepare a summary of the record to meet access requirements within 10 working days. Cal. Health and Safety Code § 123110, Cal. Health & Safety Code § 123120, Cal. Health & Safety Code § 123130	Health-care providers must make a record available to the patient, his representative or other specified individuals, within 10 working days for in-state patient for a reasonable cost. Nev. Rev. Stat. § 629.061(1), (2), Ambulance owners and operators must make a record available to the patient, his representative or other specified individuals. Nev. Rev. Stat. § 629.061(6) Skilled nursing facilities must allow a patient and his representative to inspect the records within 24 hours receiving a request. Nev. Admin. Code § 449.74443(1) Mental health providers must make records available review by the patient or patient's guardian. Nev. Admi Code § 433.27 (NEW)

Bill Tracking



Tracking pending legislation

- <u>Westlaw</u>, <u>Lexis</u> bill tracking tools
- National Conference of State Legislatures
- Advocacy organizations' legislative action centers
- <u>GovTrack</u>
- BillTrack50



Historical Statutes



Historical statutes

- Westlaw and Lexis have some prior versions of statutes; varies widely state to state, but none prior to early-1990s. Both also have a Compare Versions tool
 - Westlaw: Current statute → History → Versions
 - Lexis: Current statute → About This Document → Archived code versions

HeinOnline: <u>State Statutes: A Historical Archive</u>

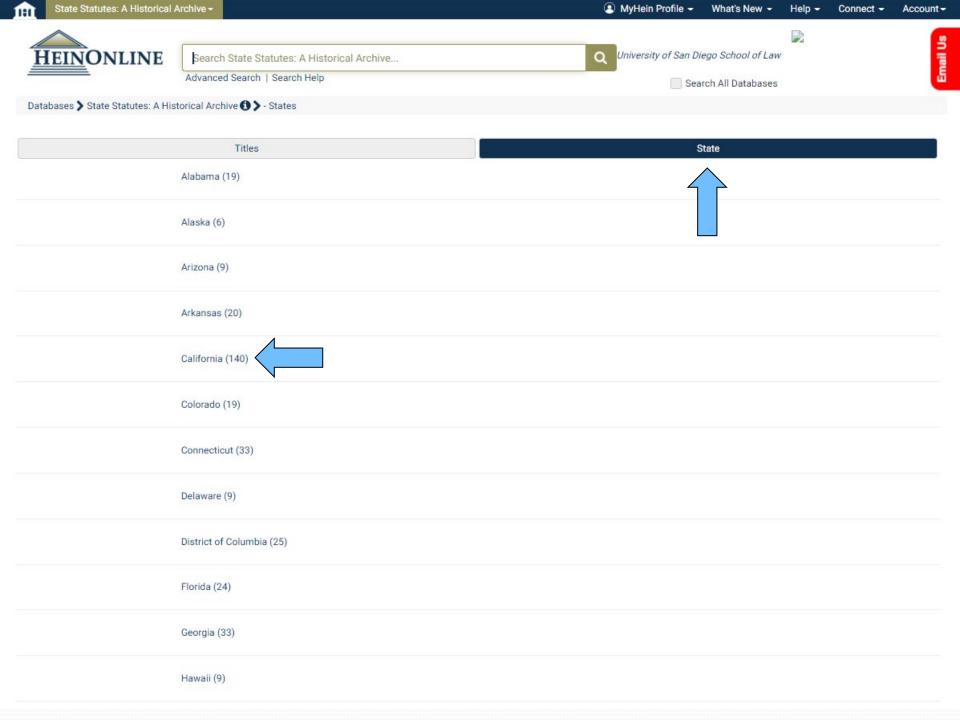
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- Subject Compilations of State Laws
- Tax Foundation Archive Publications



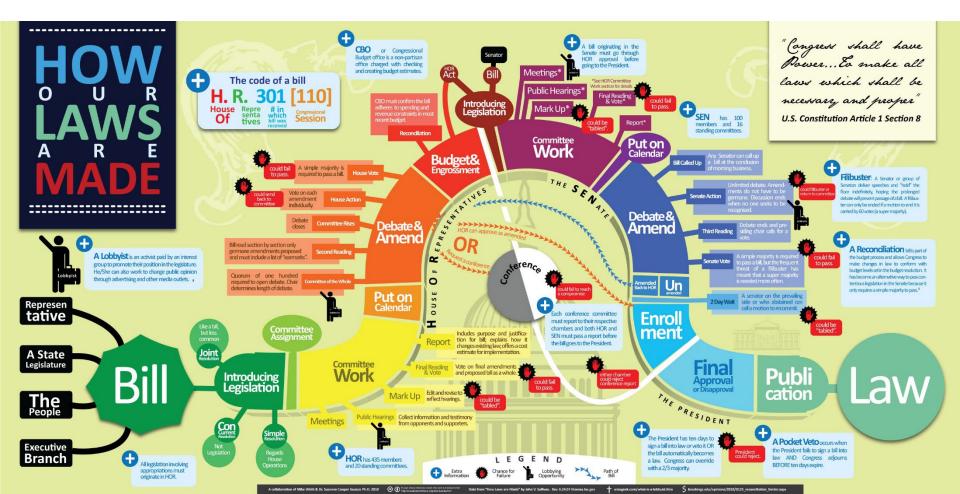
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Databases 🗦 State Statutes: A Historical Archive 🚯 🗲 - California					
	Search items in this State				
	Compiled Laws of the State of California: Containing All the Acts of Legislature of a Public and General Nature, Now in Force, Passed at the Sessions of 1850-51-52-53	Garfielde, S., Compiler; Snyder, F. A., C 1 v. Benicia: Published by S. Garfielde			
	Practice Act of California, Entitled an Act to Regulate Proceedings in Civil Cases in the Courts of Justice in This State, as Passed April 29, and Amended May 18, 1853; May 18, 1854; April 28, May 4 and May 7, 1855	Labatt, Henry J. 1 v. San Francisco: Whitton, Towne &	c Co., Printers, 1	856	
	Digest of the Laws of California: Containing all Laws of a General Character which will be in Force on the First Day of January, 1858	Wood, William H. R. 1 v. San Francisco: S.D. Valentine & S	Son, 1857		
	California Practice Act (2nd ed., rev., enl.)	Labatt, Henry J. 1 v. San Francisco [Calif.]: Whitton, To	owne & Co, 185	58	
ſ	California Probate Law and Practice	Belknap, D.P. 1 v. San Francisco: Sterett & Butler, 18	858		
	California Practice Act (3rd ed.)	Labatt, Henry J. 1 v. San Francisco [Calif.]: H.H. Bancr	roft and Co, 18	60	
	Digest of the Laws of California: Containing All Laws of a General Character Which Were in Force on the First Day of January, 1858	Wood, William H. R. 1 v. San Francisco: H.H. Bancroft & C	Co, 1861		
	California Practice Act (4th ed.)	Labatt, Henry J. 1v. San Francisco: Kenny & Alexander	er, 1861		
	Leyes de California, Dadas en la Duodecima Sesion de la Legislatura, 1861: Que Principio el Lunes, Dia Siete de Enero, y Finalizo el Lunes Dia Weinte de Mayo	Lies, Eugene 1v. Sacramento: Charles T. Botts, 186	61		
	Civil Practice Act of the State of California, as Amended	Parker Charles H. Editor: California			

Researching Legislative History



Overview of federal legislative process

(image courtesy https://www.dailyinfographic.com/how-our-laws-are-made-infographic)



Federal legislative history materials

Some of the documents you may find when researching legislative history:

- Bill text (all the versions throughout the process)
- Committee Reports
- Committee Hearings
- Congressional Debates
- Committee Prints
- Presidential or Executive Agency Documents
- Public statements, including blogs or podcasts

Sources of federal legislative history

ProQuest Congressional and Legislative Insight

- Subscription databases (use LRC website for access)
- Offer deeper coverage than Westlaw and Lexis, including materials related to both recent and historical legislation

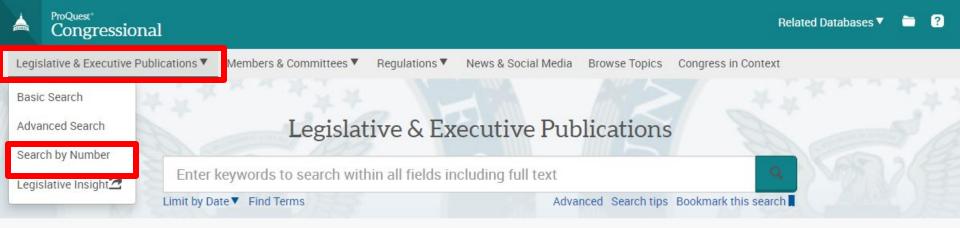
Westlaw and Lexis

- Both include some legislative history materials, though not as comprehensive as the ProQuest databases
- Both have dedicated legislative history pages (Westlaw, Lexis)

Congress.gov

 Includes current and recent materials, including videos of hearings





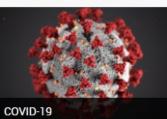
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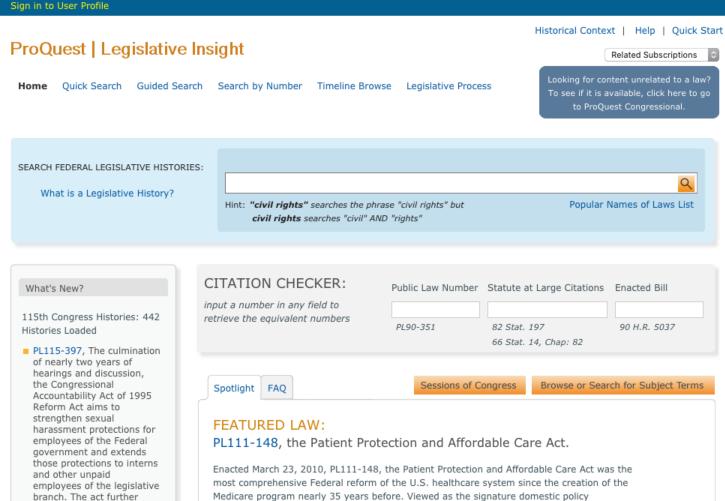
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Accountability Act of 1995 Reform Act aims to strengthen sexual harassment protections for employees of the Federal government and extends those protections to interns and other unpaid employees of the legislative branch. The act further eliminates the mandatory "cooling off" period previously required before a victim could formally pursue a harassment complaint, requires that members of Congress be held personally liable for any settlement payments arising from sexual harassment complaints, and increases transparency in cases where settlements have been paid.

Total Histories Available on Legislative Insight: The result is a complex law with provisions addressing (among other things) precipitously rising healthcare costs, medical coverage for individuals with preexisting medical conditions, and the disproportionate costs of insuring young, healthy individuals in comparison to older individuals with more health problems. Passage of the Patient Protection and Affordable Care Act was the culmination of a dizzyingly complex history of Congressional action aimed at reforming healthcare in the United States. The legislative history for PL111-148 brings this history together, allowing the researcher to track the development of these disparate initiatives over the years. Related bills,

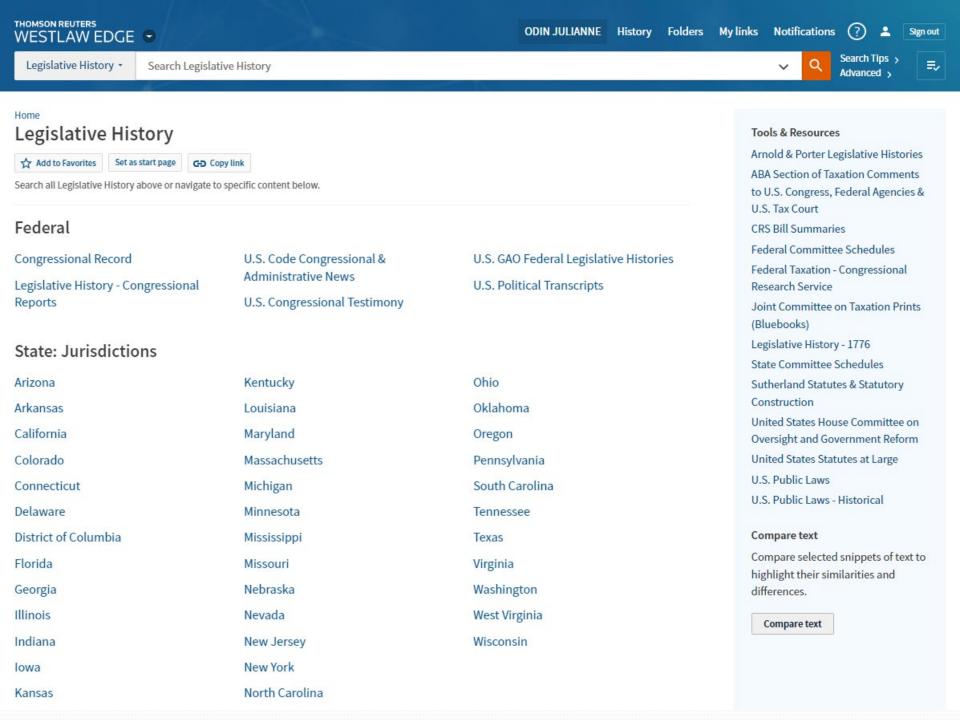
achievement of the Obama administration and colloquially referred to as "Obamacare," after

President Barack H. Obama, the act was passed following years of effort to address a variety

of interrelated issues that were placing increasing strain on the nation's health care system.

Congressional hearings, as well as numerous Congressional reports and debates recorded in the Congressional Record are all aggregated to track the process of enacting this complex legislation.

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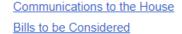
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Apr. 26, 2022 at 10:00 AM (EDT) Senate Committee on Health, Education, Labor, and Pensions

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Daily Digest of latest legislative activity.

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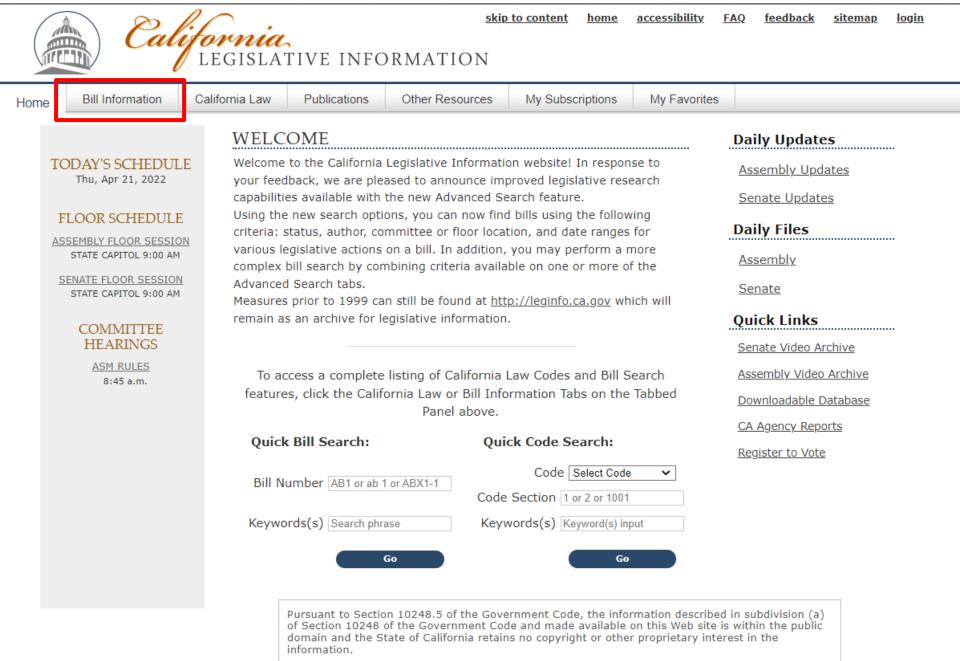
State legislative histories

The legislative process varies widely among states; fewer materials are generated than at the federal level, and they typically are more difficult to locate. Materials related to recent legislation are often easier to find; consult a reference librarian for assistance.

Two starting points for California:

- USD's <u>California Legislative History Research Guide</u>
- California State Legislature: <u>Legislative Information</u>





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Researching Administrative Law



What is administrative law?

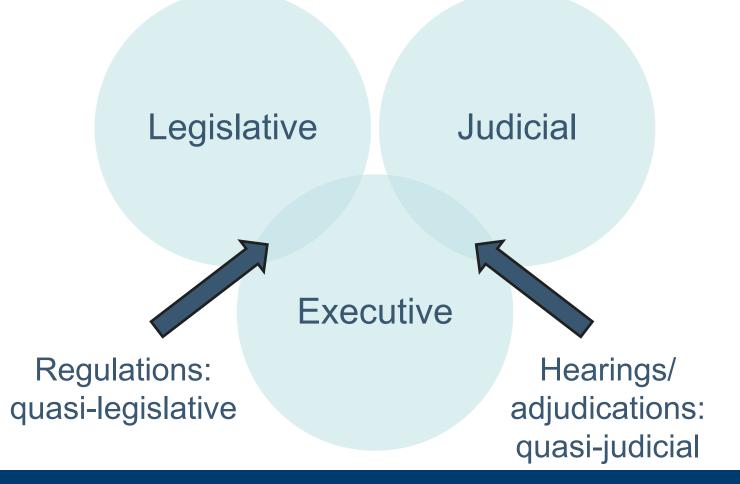
The law that governs the creation/operation of administrative agencies and the law that such agencies create.

Agencies create law in two ways:

- 1. Regulations
- 2. Agency adjudications



Administrative Law



University of San Diego

How agencies are created

Legislature passes a law, giving the broad strokes and "enabling" a government agency to implement the law

To implement the legislature's intent, the agency typically will have to do two things:

- 1. Promulgate **regulations** that provide more detailed rules and establish oversight processes;
- 2. Enforce the law through those processes, including administrative **hearings/adjudications**



Regulations



Promulgation of regulations

Strict rules about what the agency must do (simplified):

- 1. Agency drafts and publishes proposed regulations in the Federal Register (Fed. Reg.)
- 2. Opportunity for public comment
- 3. Agency reviews comments, drafts and publishes final version in Fed. Reg.
- 4. Codify the final regulations in the <u>Code of Federal</u> <u>Regulations</u> (C.F.R.)



Federal Register

TODAY'S TOC



About the Federal Register

Published by the **Office of the Federal Register**, **National Archives and Records Administration (NARA)**, the Federal Register is the official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents. Read More

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Code of Federal Regulations (Annual

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About the Code of Federal Regulations

The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The 50 subject matter titles contain one or more individual volumes, which are updated once each calendar year, on a staggered basis. The annual update cycle is as follows: titles 1-16 are revised as of January 1; titles 17-27 are revised as of April 1; titles 28-41 are revised as of July 1; and titles 42-50 are revised as of October 1. Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the CFR refer to material at the section level. Read More

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What's New on Regulations.gov

New features recently added include docket subscriptions and the ability to browse all posted comments to a docket. See FAQs for more detail.



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Guidance documents

- Some agencies put out informal documents that lay out current thinking on issues
- Avoids strict requirements for promulgating regulations
- Not legally binding, but can be a good indicator of an agency's position
- May not be formally published—look on agency's website



Agency Adjudications



Administrative adjudications

- Differs widely among agencies
- Informal/formal
- Bind only parties/precedential effect
- Whether and how they're published
- Agency websites are often a good place to start
- Westlaw, Lexis, Bloomberg Law and other specialty databases have selected agency adjudications
- HeinOnline has historical agency materials

Formal adjudications

- Look a lot like court cases
- Agency hearing (similar to trial)
- Conducted by administrative law judge (ALJ) (similar to trial court judge)
- Can be appealed up to a higher authority within the agency
- Once administrative remedies are exhausted, often can file suit in court



Informal adjudications

- Advice letters
- Attorney General opinions
- Advisory guidance

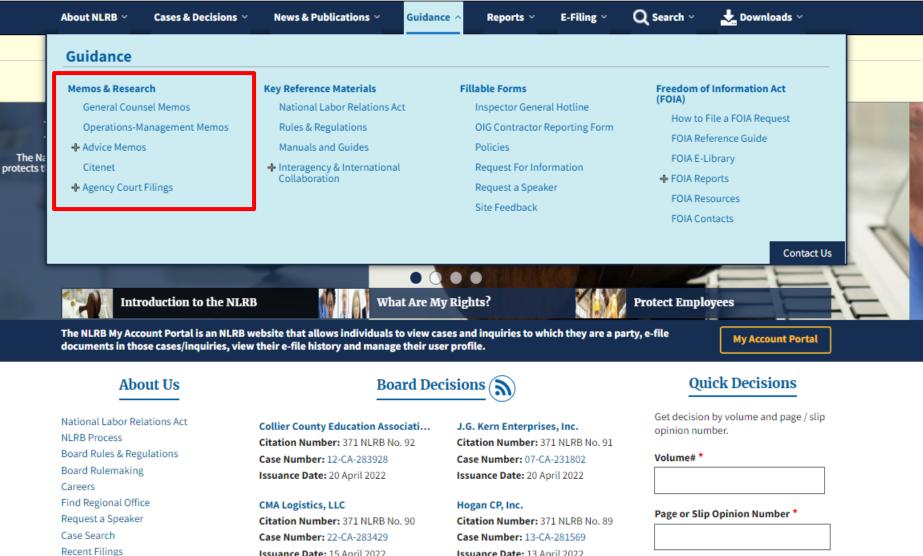






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1-844-762-NLRB



Election Results

Honors Program

NLRB FOIA

Issuance Date: 15 April 2022

Lagos General Contractors, Inc. Citation Number: 371 NLRB No. 88 Case Number: 13-CA-284126

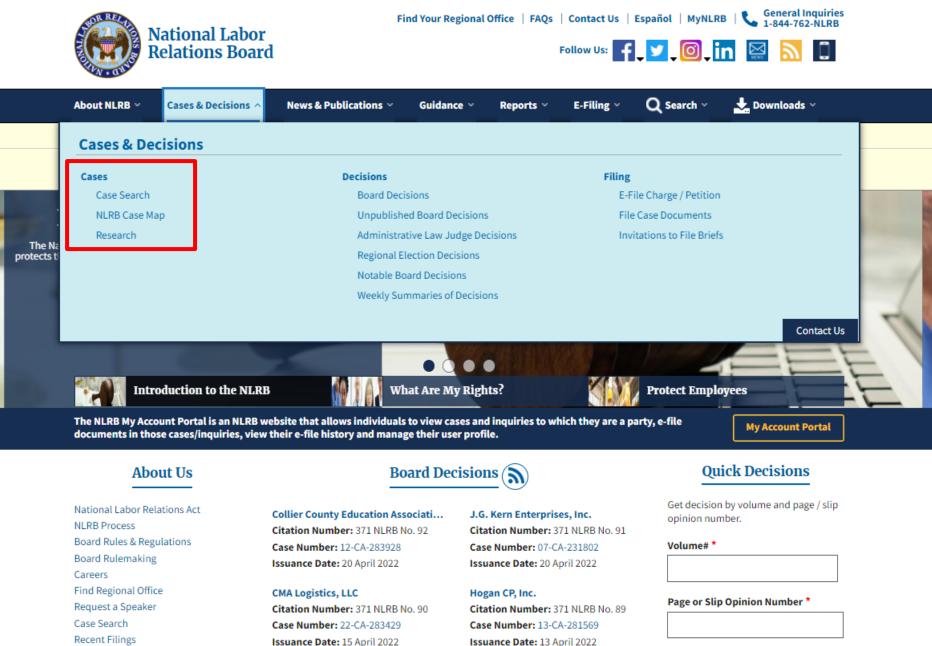
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Election Results

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Lagos General Contractors, Inc. Citation Number: 371 NLRB No. 88 Case Number: 13-CA-284126

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President Biden's Digital Revenue Proposals

JD Supra (Blog)

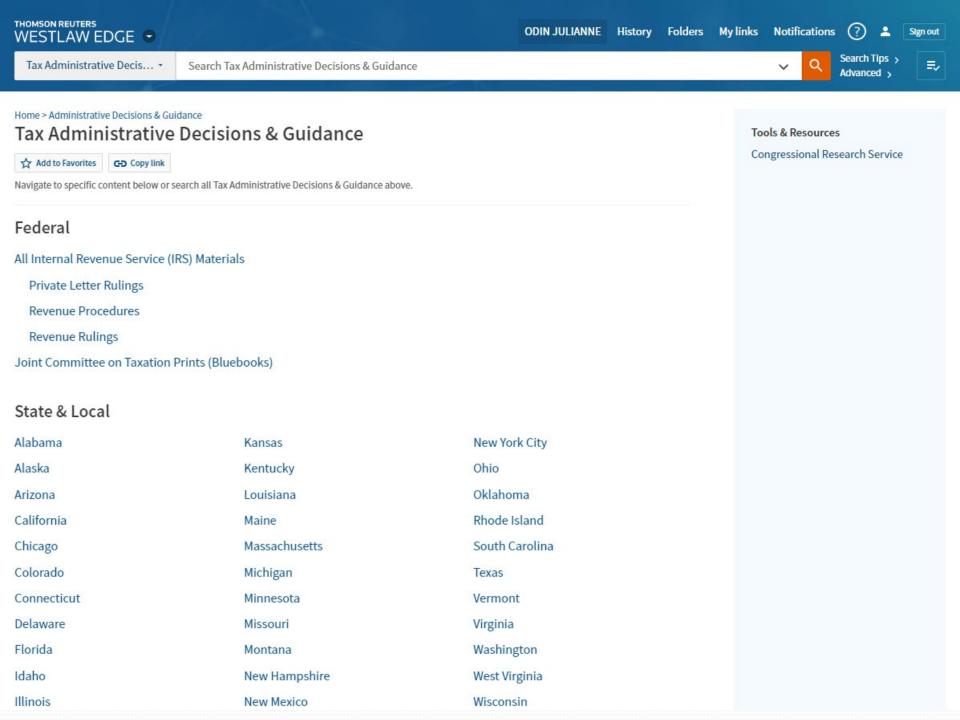
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Andrew Le of Atheria Law discusses a recent Texas Supreme Court decision that confirmed an exception to the state's "eight corners rule" and how the ruling might apply to coverage issues surrounding design and construction defect litigation.

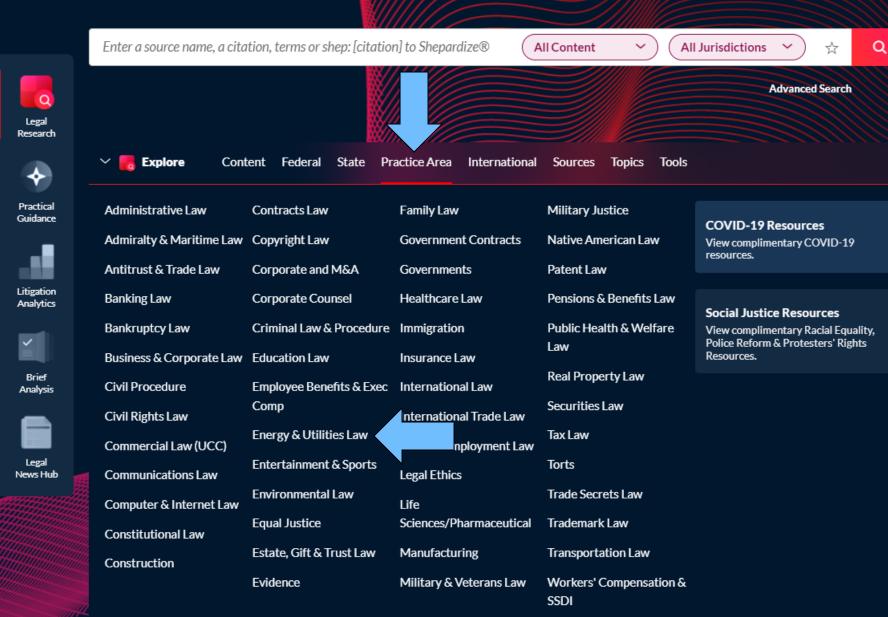
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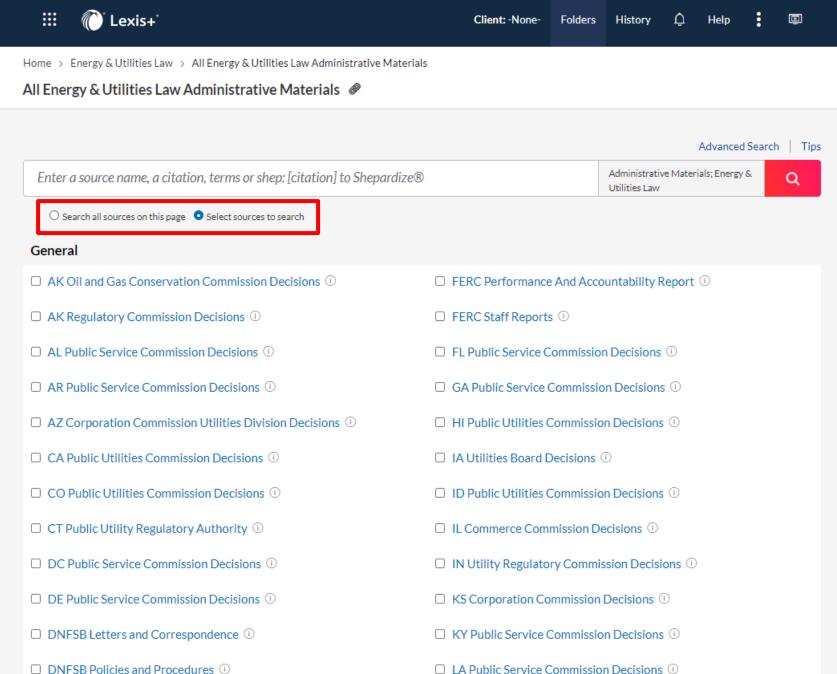
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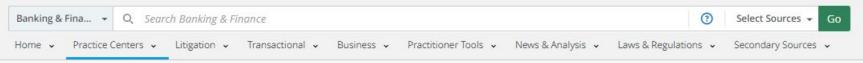


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